DOCUMENT RESUME

ED 240 961 HE 017 074

TITLE Access to Student Loans. Hearing before the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources. United States Senate, Ninety-Eighth Congress, First Session.

INSTITUTION Congress of the U.S., Washington, D.C. Senate Committee on Labor and Human Resources.

PUB DATE 20 Sep 83

NOTE 103p.; Some pages may not reproduce well due to small print.

PUB TYPE Legal/Legislative/Regulatory Materials (090)

EDRS PRICE MF01/PC05 Plus Postage.

DESCRIPTORS Access to Education; Accountability; *Agency Role; *Banking; Capital; *Competition; *Credit (Finance); *Financial Needs; Hearings; Higher Education; Law Schools; Private Agencies; Public Agencies; *Student Loan Programs

ABSTRACT

Hearings are presented on the proliferation of interstate guarantee arrangements in the area of student loans, and the effect of such arrangements on student access to loan capital. Topics include: the desirability of establishing territorial monopolies for student loan guarantee agencies, the views of the Higher Education Assistance Foundation and the United Student Aid Funds organization concerning the proposal to prohibit lending or guaranteeing loans across state borders, views on Utah's Law School Assured Access Program, and results of a study of the coordination of interstate activities in lending and loan guaranteeing. A primary concern of the hearings is whether state guaranteed agencies are meeting the borrowing needs of students, as specified in the Higher Education Act. Questions are raised concerning public accountability of private lenders, whether better services could be provided to the public through multiple guarantors in a state, and whether new proposals would erode participation by the smaller size lender. Additional topics include participation by United Negro College Fund colleges in the Citibank higher education assistance foundation program, and the role of the Law School Admissions Council in assuring that students accepted to law school will have the resources to attend. (SW)

S. Hrg. 98-432

ACCESS TO STUDENT LOANS

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HEARING

BEFORE THE

SUBCOMMITTEE ON
EDUCATION, ARTS AND HUMANITIES

OF THE

COMMITTEE ON
LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

TO REVIEW THE ACCESSIBILITY OF STUDENT LOANS

SEPTEMBER 20, 1983

HE 017 074

Printed for the use of the Committee on Labor and Human Resources

U.S. GOVERNMENT PRINTING OFFICE

27-461 O WASHINGTON : 1983

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TUESDAY, SEPTEMBER 20, 1983

U.S. SENATE,
SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room SD-430, Dirksen Senate Office Building, Senator Robert T. Stafford (chairman of the subcommittee) presiding.

Present: Senators Stafford, Grassley, Pell, and Randolph.

OPENING STATEMENT OF SENATOR STAFFORD

Senator STAFFORD. The Subcommittee on Education, Arts and Humanities has called this hearing to consider the recent proliferation of interstate guarantee arrangements in the area of student loans and to review the effect such arrangements have had on student access to loan capital.

As chairman of this subcommittee, I have been concerned that the student financial assistance programs so painstakingly constructed over the past quarter century work, as the Congress intended, to the benefit of students. The Higher Education Act of 1965 provides for the establishment and operation of State agencies to guarantee student loans under the guaranteed student loan program and for the operation of nonprofit private organizations to guarantee loans in States which do not choose to establish State agencies.

During the past three major reauthorizations of the Higher Education Act, in 1976, 1978, and 1980, the Congress has explicitly sought to insure a decentralized system of loan guarantee arrangements by strengthening incentives to build strong State loan guarantee agencies. Although the law does not specifically prohibit a nonprofit private guarantor from guaranteeing loans in a State which has established a State guarantee agency, it is clear that Congress did not intend to have a proliferation of guarantors in any one State.

We are now encountering a number of situations in which the clearly delineated relationship intended by Congress between State loan guarantee agencies and the so-called national guarantors is becoming cloudy, with resultant confusion of the student loan delivery system. I am concerned that certain of these "national" guarantors are now entering States to provide loan guarantees without adequately consulting the entity accountable to the public, that is, the designated State agency. I am also concerned about nonessential guarantee arrangements which may have been entered into without sufficient notice to the Congress.

In the opinion of this Senator, this is not merely a question of "turf" between the State agencies and national guarantors. Most importantly, we are conducting this hearing to investigate whether the existing arrangements for guaranteeing student loans meet the principal purpose of providing access to loans in the coherent manner intended by Congress. The Congress has repeatedly tried to insure that students have access to loan capital regardless of their economic circumstances, the kind of institution they attend, or their State or residence. It is apparent that our initiatives to improve access have not been completely successful. In certain States, where access to student loans has been far from universal, the State agencies have not provided sufficient incentives to lenders. This is especially true for students in proprietary school programs of short duration, for students who are taking out small amounts of loans, and for those who may not have had a prior lending relationship with a bank. In these types of situations, where the State has not utilized its ability to act as a lender of last resort, it may be necessary to have an outside lender or an outside guarantor.

Nevertheless. I believe that there should be some kind of independent determination of whether a State loan guarantee agency or an outside guarantor can do a better job of providing access to student loans. I do not believe that such a determination can or should be made unilaterally by either party. If we do not confront this matter now, we run the risk of seeing established, beyond the control of the Congress which created the student loan programs, a byzantine system of lending and guarantee arrangements which can only prove detrimental to the guaranteed student loan program and to the students it is intended to serve. I look forward to the testimony by today's witnesses, which I hope will enlighten us and provide us with some solutions to this difficult problem.

Senator Randolph, I am delighted you are here. I assume you have an opening statement, and this would be a good time to make it.

Senator RANDOLPH. Thank you very much, Mr. Chairman.

You are certainly correct in laying the foundation for the testimony of witnesses today in the matter of student loan accessibility.

I will work my way through, perhaps, a very brief statement; I may ask to place parts of it in the record, and I shall ask to include a letter.

Senator STAFFORD. Without objection, we will make that right now as a ruling.

Senator RANDOLPH. Thank you very much.

Mr. Chairman, ordinarily, it would not be my purpose to begin a statement with a commendation of the chairman of the subcommittee, but——

Senator STAFFORD. You can, if you want to.

Senator RANDOLPH. I think sometimes, we do not speak for the record about these matters. We know of the work, the very commendable careers in certain aspects of legislative history, which are really the lifeblood of Capitol Hill, those Members who give time and attention to matters of education. You, as the chairman of our subcommittee, Senator Stafford, are one of those Members with whom I have had the privilege and responsibility of sharing the matters for many, many years—I will not say how long—and during that number of years, I have repeatedly known how much work you have done before a hearing opened, the study, the concern, and the attention that you have given to matters, especially in the fields of education and the environment. You and I serve on these two committees, Environment and Public Works, and Labor and Human Resources, and I would like that to be part of the statement that I shall give today. It is not in any cursory fashion that I have offered these words of praise.

Senator STAFFORD. Thank you.

Senator RANDOLPH. I wonder if it is agreeable to you, Mr. Chairman, to have the first witnesses come and be at the table. Would that be wrong?

Senator STAFFORD. No.

We would be glad to invite the first panel, which is going to consist of Mr. Richard Hawk, chairman of the board, Higher Education Assistance Foundation; Mr. J. Wilmer Mirandon, president, United Student Aid Funds, Inc.; Mr. Stephen C. Biklen, vice president, Citibank, and Mr. James R. Bullard, vice president, Hawkeye Bancorporation. We would be pleased if you would come forward.

Senator RANDOLPH. Mr. Chairman, I welcome, with you and Senator Grassley, today's witnesses. Other members of our subcommittee, I know, will plan on being present, if at all possible, to hear our witnesses. They are here to give testimony on whether it is proper—and I use that word; there might be other words that could be used—for one State guarantor to enter another State to provide loan capital for students and institutions who do not have access to guaranteed loans they need for college and university enrollment.

West Virginia lenders are making such loans in South Carolina. I wish to place in the record a letter from the University of South Carolina at this point. I believe you indicated that it would be agreeable, and I would like to have that made a part of the record at this point.

Senator STAFFORD. Without objection, it will be included.

[The following was received for the record:]

UNIVERSITY OF SOUTH CAROLINA

COLUMBIA S C 29208

OFFICE OF STUDENT FINANCIAL AID
AND SCHOLARSHIPS

January 28, 1983

Mr. Ben Morton
Vice President
Higher Education Assistance Foundation
P. O. Box 591
Charleston, WV 25322

Dear Mr. Morton:

I greatly enjoyed talking with you last week. I had hoped to get this letter out on Friday, but the "Great Blizzard of '83," descended and shut us down. We are looking forward to your trip down here and trust it will be a successful journey. As I told you during our conversation, we have confirmed reservations for you and Mr. Snider at the Town House for Wednesday night February 9. The Townhouse, located at 1615 Gervais Street, is about two blocks from our office. The enclosed map should help you when you get into town.

As I told you during our conversation, the University of South Carolina is most interested in obtaining additional guaranteed loan support for its students. The situation that has developed over the course of the last several years here in South Carolina with the availability of GSL's, as you are aware, makes it imperative that we procure additional support. It is for this reason that your positive response is so encouraging.

In reviewing our current loan volume and projecting our future needs, several factors are important. For this year (1982-83) we have processed applications totaling loan requests for approximately $6 million. Of this amount, approximately half is for out-of-state students, and half for in-state students.

One of the factors at issue here is that the in-state loan requests through the S.C. Student Loan Corporation are artificially low due to the Corporation's published loan limits. The vast majority of our undergraduate students request no more than $1500 simply because that is the limit published on the Corporation's application. Furthermore, we have no way of knowing how many students do not apply simply because they or their parents are intimidated and exasperated with the form itself.

In addition, too many of our students are denied loans on the basis of the Corporation's own arbitrary and subjective academic requirements. The result of these mitigating factors is that fewer students have applied for smaller loans than would be the case with a viable loan program. We would, therefore, anticipate that our initial need for annual loan support would be in the neighborhood of $3 to $4 million. The actual amount would, of course, depend to some extent on the number of new first-time borrowers who we would immediately put on HEA , and the number of renewals who would not want to obtain a loan from a second lender due to multiple repayment. The impact of this would be that the volume for the first year would be less than succeeding years, as the number of renewals lessened. Certainly, I would expect the vast majority of our graduate and professional (law/medicine) students would apply through HEAL regardless of previous loans. The bottom line is that our volume could only increase substantially once we had a viable GSL program available.

Again, we look forward to your visit. Please let me know if there is any other assistance I can provide.

Sincerely,

Ray Edwards

Ray Edwards
Associate Director

RE/co

Enclosures

cc: John Bannister, Director
Don Griggs, Assistant Director

Senator RANDOLPH. Many of us are intensely interested, and we are keenly aware, that colleges and universities suffer, and may be suffering at this moment, from a national decline in the number of college-age youth. This is not the time—I do not think it is the time, if there is ever the time—to make matters worse, to compound them, by forcing schools to turn students away from their campuses because they are unable to obtain the guaranteed loans, for which they are legally eligible, from their State lender, due to what I call arbitrary limitations that have been placed on the amount a student can borrow—an amount far below the maximum loan allowed under the Federal statute. This limitation keeps the neediest students from enrolling in college, particularly the so-called high risk and, shall we say, less affluent, even poor, students, many of whom are from minority groups. These are the youth who are not from families who are what we call chronically poor—I have to watch these words, because sometimes you can be very enriched in your life and have but a few pennies in your wallet—but families who are this newer group of unemployed-poor as a result of the high unemployment throughout the country.

Mr. Chairman, whatever the national rate of unemployment is at the present time—and perhaps I should place it in the record, but I want to be correct; it is 8.5 percent, or 9, if anyone can give us—the national unemployment rate, now at 9.5. It is a fact that West Virginia has an unemployment rate of twice that amount, and I will place in the record the most recent figure—do we have that—17.5. So it has come down somewhat.

So, I think that we have to be checking what I call discretionary income, and savings, because frankly, now, with the economic setbacks, family discretionary incomes are nonexistent, and they want very much to ask that they not be given money, but just that they have the opportunity to borrow money for college expenses for their children.

And so, if the need exists in any State—and I say any State—for new sources of guaranteed loan capital, it would seem to me, then, that State is either unwilling or unable to meet the need. And the proof of existing need lies in the fact that some States, like South Carolina, for example, have gone outside their borders, the borders of the people of that State, on behalf of those who are, in a sense, pleading for assistance.

Why, then, I ask the question, do we turn around and seek to penalize those who respond to that call for help? And often, there is an accusation that they have illegally been poaching, or they have made an unlawful entry, as though they are burglars, acting in the dark of the night. If I have overstated that, why, it is but an illustration.

Now, I am not sure, Senator Stafford, that it would not violate the law if a loan guarantor refused to provide this assistance on request; I am not sure of that, but I am certain that you and others, more learned in the law than I am, will discuss it.

We will have a witness today—I do not say he is the star witness, but he is certainly a very important witness—Richard Hawk, president of the Higher Education Assistance Foundation. Now, he and the firm he represents stand accused of unlawful entry across State lines to provide capital in loans for students. And you and others on this committee will give to Mr. Hawk and to others a very fair hearing.

Now, I will not talk about Mr. Hawk too much, but anyone who has been working in West Virginia to help us, why, I want to have the record so indicate. It was about 3 years ago that Mr. Hawk set up our second-resort lending authority. He went into our State at a time—and remember, Mr. Chairman, he went in at our request—when there were only a few banks that were participating in West Virginia in the guaranteed loan program. Now, since that time, more than 158 lenders have begun to make loans to more than 15,000 students who, I doubt, could have gone to college had this assistance from another State not been available to West Virginia.

Presently, Mr. Hawk operates in five States and in the District of Columbia, and he has returned every dollar of cash reserve advances he received from the Federal Government enabling him to establish these six lending authorities. I know that Mr. Hawk presented to Secretary Bell a check for $10.8 million, and he has recently reduced the guaranteed fee charged by the Foundation by 40 percent, reducing student costs by $10 for every $1,000 borrowed.

Now, I am inclined to believe that what Mr. Hawk and his Foundation have done—if he is guilty, why, I think he is guilty only of making the most of our free enterprise system, which I hope is still existent, and he has sound business practices—we can develop that in testimony—and there is a wholesome competition that has ensued.

I express my appreciation for the opportunity to have this hearing. You, Mr. Chairman, I commend again. There is no one who is more interested, and I say it particularly again in this hearing, than you, Mr. Chairman. Your record shows not that you have favored one or the other, but you have been fair, and that is all I am asking today in this matter. The stewardship of our subcommittee has been due in large measure to your strength, and I have worked with you, as others have, to see that what we do is not distorted, not disarranged, but is orderly.

And so, whatever we have done or have no'. done in destroying student aid programs through budget cutbacks in the last 3 years, all of us know that the guaranteed loan program has survived because there has been a real need for it, and there has been a diligence within you, Mr. Chairman, that has allowed the GSL program to survive. Today, as I said, this hearing will give us an opportunity to determine what should be done, or what we can do, to resolve the problem. We may find it necessary to set a new national policy for student loan access; I am not sure. But this hearing and others, I think, are necessary so that we can take well-reasoned action, and it must be crafted very carefully, as you and I know. I just would not want us to think of this as a side issue, but that we await final action until we begin the Higher Education Act reauthorization process. I think the parties likely to be most affected should have ample time, as we are giving time, through this hearing for them to be heard today, before we impose restrictions on HEAF in their ability to provide student loans where they are needed.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Randolph.

[The prepared statement of Senator Randolph follows:]

PREPARED STATEMENT OF SENATOR RANDOLPH

Mr. Chairman, I welcome today's witnesses who are here to give testimony on whether it is fitting and proper for one State Loan Guarantor to enter another State in order to provide additional loan capital for students and institutions under the Federal Guaranteed Loan Program. Simply stated, such practice is considered to be "assuring access" by students and institutions to sufficient levels of funds available to meet student credit demands in any State, as required by law.

For the record, I point out that West Virginia lenders are making such loans in South Carolina, at South Carolina's specific request—or at least at the request of South Carolina's colleges and universities.

Mr. Chairman, I wish to place in the record at this point a letter from the University of South Carolina that establishes their lead role in inviting West Virginia's bankers to provide additional guaranteed loan support.

I use the West Virginia example since that is where my interest and concerns lie for the most part. I am aware that the Higher Education Assistance Foundation, the parent of the West Virginia Higher Education Loan Program, is affiliated with other States for the purpose of providing loan capital to students, and Mr. Richard Hawk the President of HEAF is here to testify today on the concerns before the Subcommittee.

Mr. Chairman, we are intensely aware that colleges and universities are suffering from a national decline in the numbers of college-age youth. That is evident from reports from colleges and universities nationwide that competition among them is fierce for every student eligible to enroll in college, but that student enrollment is still down.

This is surely no time to force institutions to turn students away because they cannot obtain guaranteed loans, for hwich they are legally eligible, from their own State Lending Authority. When arbitrary limitations are placed on the maximum amount a student can borrow, and eligibility restrictions are imposed over and above those imposed by Federal law, the result is that students and institutions must go elsewhere, outside their borders if necessary, to obtain the loan capital they require.

Such loan limitations and eligibility restrictions imposed by a State Lending Authority keeps the neediest students from going to college, particularly the so-called "high risk" poor and minority students—youths who are not only from families who are chronically poor, but from the new-poor families created by the long recession and high unemployment rates natidonwide. These families no longer have discretionary, spendable income after life's necessities are taken care of, to use in support of a child's college expenses.

When it becomes known that the student credit demand in a state is not being met because outside lenders are called in to satisfy that demand, it is usually because the State Lending Authority, established as a secondary resort lender to assure loan access, is either unwilling or unable to meet that statewide demand.

The whole reason for establishing State Lending Authorities, for which the Federal government provided start-up assistance, is to assure student access to loans. Why then, if a State goes outside its borders for sufficient loan capital, do we instantly leap to the conclusion that its wrong and must be stopped at all costs.

It has been suggested that if a legally-established Loan Guarantor were to refuse such a request, it would be in violation of the law calling for the assurance of student access, not the other way around.

One of the witnesses on the first panel is Mr. Richard Hawk—the President of HEAF. He and his Foundation are the ones who stand "accused" of unlawful entry across state lines to provide loan capital for students and institutions. He will receive a fair hearing, as will all the witnesses today.

If I may, I would just like to say a few words about Mr. Hawk.

Mr. Hawk went to West Virginia a little more than 3 years ago with my blessings. He helped establish West Virginia's second-resort lender. He did so at a time when there were only a handful of banks participating in the Guaranteed Student Loan Program.

Since then, more than 158 lenders have been brought into the program and have made more than 15,000 loans to students who could never have hoped to go to college without them.

Mr. Hawk, who operates in 5 states and the District of Columbia, recently returned every single dollar of cash reserve advances he received from the Federal government to begin his Foundation and to establish these 6 lending authorities.

Mr. Hawk presented to Secretary Bell a check for $10.8 million dollars a few months ago.

Mr. Hawk has also recently reduced the guarantee fee charged by the Foundation by 40 percent, reducing student costs by $10 on every $1,000 borrowed.

I am inclined to believe that the only thing Mr. Hawk and the Higher Education Assistance Foundation is guilty of is having made the most of a free-enterprise system that we value highly, through sound business practices and healthy competition in the marketplace.

I have a number of questions for Mr. Hawk. Included will be questions concerning the implementation of a new loan program for law students which, as I understand it, sparked the controversy that led to today's hearings to a greater extent than the fact that Mr. Hawk's foundation entered non-affiliated states in order to provide additional guaranteed loan capital.

Finally, Mr. Chairman, I want to express my appreciation to you for making this hearing possible. There is no one more concerned for the educational needs of our children and youth than you. Your able stewardship of this Subcommittee has given strength and meaning to our work. Without your strength and deep sense of fairness, many education programs would have been virtually destroyed by budget cutbacks in the last 3 years. All of us here today are particularly aware that this is true of the Guaranteed Student Loan Program. It has survived chiefly due to your diligence in watching over it. We are in your debt, and we thank you.

Mr. Chairman, what we decide to do to remedy the problem being discussed at today's hearing will amount to setting a new national policy for student loan access. If, after these hearings, it is deemed necessary to take legislative action, such legislation must be carefully crafted.

It remains my hope that no action shall take place before we begin the higher education act reauthorization process, so that the parties likely to be most affected will have time for input in that process.

I thank the Chairman for the time alloted to me this morning.

Senator STAFFORD. Senator Grassley?

Senator GRASSLEY. Thank you, Mr. Chairman.

I appreciate the opportunity to participate in this hearing this morning. As you know, I am not a member of the subcommittee, but because my own State of Iowa has been a focus of the debate on whether State guarantee agencies should play an exclusive role in guaranteeing student loans in their States, I have a strong interest in this matter. I appreciate your letting me participate Mr. Chairman.

A large lender in my State last year contracted with a nonprofit organization outside the State to guarantee their loans made under the guaranteed student loan program. That situation, as well as similar situations in other States, is the basis for the controversy that is before us. We have an opportunity at this hearing, to more fully study whether guarantee services should be allowed to be broad-based and competitive.

I would hope, however, that we would keep our primary focus this morning on whether the borrowing needs of our students as envisioned by Congress in the Higher Education Act, are being met by the State guarantee agencies. I think the goal of providing for needs of the students has to be our main concern. We must ensure that our students have full and equal access to the funds under the guaranteed student loan program and that our State guarantee agencies remain the primary provider of guarantee services.

On the other hand, private guarantors have proven to be effective in providing loans for underserved student populations and guarantee services for lenders serving students in more than one State. Laying out the problem, as my two colleagues have, I, too, look forward to the examination of this issue and thank the chairman for his cooperation and leadership.

Senator STAFFORD. Thank you very much, Senator Grassley.

Senator GRASSLEY. Mr. Chairman, I neglected to mention that one of the panelists is from my State of Iowa. In addition, we have another Iowan in the audience, Willis Anne Wolf, who will not be testifying today, but who will probably be submitting some written testimony, if that is permissible. She is director of our Iowa College Aid Commission. I would like to welcome her.

Senator STAFFORD. That will be permissible. Without objection, we will allow that to occur.

The Chair was going to comment that we never have enough time in these meetings to begin to do justice to the work that the witnesses have put into their appearance here, and so at the outset, I will apologize for that fact.

Claiborne Pell, probably from driving to and from work, evolved this traffic control light system that is in front of you, some years ago. In the other committee, we use some worn-out sand things that tell us when 5 minutes is up; but here, it will be 4 minutes on the green, 1 minute on the yellow, and then you are on the red. I think you have all been warned of that. Your entire statements will be placed in the record as if read, following your verbal testimony.

So, without further ado, we will start, Mr. Hawk, with you.

STATEMENT OF RICHARD C. HAWK, CHAIRMAN OF THE BOARD, HIGHER EDUCATION ASSISTANCE FOUNDATION, OVERLAND PARK, KANS.; J. WILMER MIRANDON, PRESIDENT, UNITED STUDENT AID FUNDS, INC., NEW YORK, N.Y.; STEPHEN C. BIKLEN, VICE PRESIDENT, CITIBANK, ROCHESTER, N.Y.; AND JAMES R. BULLARD, VICE PRESIDENT, HAWKEYE BANCORPORATION, DES MOINES, IOWA

Mr. HAWK. Thank you very much, Mr. Chairman.

I simply cannot begin without expressing my appreciation to Senator Randolph for his very kind remarks. I must also say that I appreciate his complimentary remarks about the chairman of this subcommittee. The influence of both Senator Randolph and Senator Stafford in providing leadership for higher education through this committee has been something remarkable, and I think both of you should know that we are very much indebted to you. We regret that this is Senator Randolph's last term from the State of West Virginia, but we will forever be indebted to his fine leadership, as we are to the leadership of the chairman.

Mr. Chairman, I think this committee knows full well that the Higher Education Assistance Foundation is one of the controversial organizations around which these hearings are being held. The Higher Education Assistance Foundation has had a strong, continuing, forthright commitment to causing the guaranteed student loan program to be as effective as possible in meeting the needs of the students of this Nation.

The foundation, in pursuing this objective, has been ready and willing to serve wherever the services of this organization are needed. The foundation, as has been indicated, has served as the designated guarantee agency in some five States, plus the District of Columbia. But over and above this, the foundation has made its guarantee service and its supporting services available to serve lenders which are in a position to provide capital to meet need, wherever that need might be. This has taken several forms. In some instances, it has taken the form of a targeted program to meet the needs of a specific group of students who have not had full and adequate access to guaranteed student loans, such as students attending the colleges associated with the United Negro Fund; or students attending some groups of vocational schools for which loan access has not been fully adequate; or, in the case of the Law School Admissions Council, students seeking to attend law school who have not had full access to the full spectrum of loans available under the law, both guaranteed student loans and the ALAS loans under the PLUS program.

In some instances, the effort of the foundation has been simply to make a guarantee available to a lender which is willing to provide financial resources to a clientele served by that lender on a nationwide basis. A good example of this is the Lutheran Brotherhood Organization, which has a clientele throughout the United States, is willing to provide its loan capital to meet the needs of that clientele, but is not related to an individual state.

Another thing which the foundation has been willing to do is to provide a guarantee and a source of service for national lenders which have made a substantial commitment to meeting the loan needs throughout the Nation. An example of that kind of organization is Citibank, from whom you will hear today.

The foundation has also been prepared, as Senator Grassley has indicated, to step in and provide the opportunity for a commercial lending institution to exercise its right to select a guarantor with whom it wishes to have a relationship in order to develop the kind of program which, in the judgment of that lender, is of an adequate nature to permit that lender to provide effective service in that state.

The Higher Education Assistance Foundation is proud to have been a part of all of these developments. The Higher Education Assistance Foundation is proud to share with you, as we have with you, Mr. Chairman, some additional plans for a last-resort vocational program of a broader nature than what the Foundation has been involved in in the past, and also a program under which student financial aid officers throughout the Nation would have the opportunity to refer an application for any student who is not able to secure a loan from other sources, so that that student could have his or her needs met on a last-resort basis, and under such arrangement thereby preclude the situation of some students where, simply because of place of residence or circumstances, are denied the opportunity which can be provided under the guaranteed student loan program.

The Higher Education Assistance Foundation is committed to continuing to provide these kinds of services in order to make the program as effective as possible, in order to stimulate sources of capital to be available for loans, in order to facilitate effective lender participation, in order to provide a resource which will cause institutional needs to be met, and most important, to assure that there is full and equal access for students to guaranteed student loans, as intended by the Congress. The Higher Education Assistance Foundation is committed to continuing to provide these kinds of services to the fullest extent Congress wishes these services to be provided.

We frankly are concerned, Mr. Chairman, that an effort to prohibit a guarantee agency from guaranteeing a loan in the territory of another agency would result in territorial monopolies, which we think would not be in the best interest of the program. We think such monopolies would have some favorable effects on guarantee agencies; we think, however, that such monopolies would not have positive effects on lender participation in the program, would not have positive effects on institutional access to funds to meet needs of students, and most importantly, would disrupt the very significant progress which has been made in this Nation to provide full and equal access to postsecondary education.

So, we respectfully submit, Mr. Chairman, that it would not be good policy, good public policy, to establish territorial monopolies. We think the record speaks for itself. It has been the opportunity for organizations to serve where needed which has caused very significant progress in permitting the loan needs of students to be met, and we submit, Mr. Chairman, that the Congress ought to be encouraging and facilitating these kinds of opportunities.

Thank you.

Senator STAFFORD. Thank you very much, Mr. Hawk.

[The prepared statement of Mr. Hawk follows:]

Statement

to

Subcommittee on Education, Arts and Humanities

UNITED STATES SENATE

September 20, 1983

by

Richard C. Hawk

Chairman of the Board
HIGHER EDUCATION ASSISTANCE FOUNDATION*

*The Higher Education Assistance Foundation serves as the primary student loan guarantee agency in Kansas, Minnesota, Nebraska, West Virginia, Wyoming and Washington, D.C., and guarantees loans for selected lenders in other locations.

Summary of Statement
by
Richard C. Hawk

Territorial monopolies for student loan guarantee agencies, as requested by student loan organizations, would not be sound public policy.

Although beneficial to some guarantee organizations, monopolies could have damaging effects on lending institutions, educational institutions and students.

Allowing only one guarantor is disadvantageous whether the restricted territory is one or more states or the whole nation.

Territorial monopolies would impede commercial lender participation, reduce sources available to educational institutions for meeting student needs and disrupt progress toward full and equal loan access achieved under existing law.

No real need for territorial monopolies exists; current federal subsidies are adequate to assure the viability of guarantee agencies.

The data do not demonstrate any substantial damage to loan guarantee agencies by competition from the Higher Education Assistance Foundation, which currently guarantees only 8.6% of national volume, including guarantees issued in the six states in which the Foundation is the designated guarantee agency.

Although operating with less public subsidy than most guarantee agencies, the Foundation has achieved financial viability and effective service in the six states in which the Foundation serves as the "designated guarantee agency."

The Foundation also has made significant contributions to stimulating lender participation and improving loan access through effort outside of the six states of designated guarantor service.

The broader service has included guaranteeing loans under special access programs, such as those for students attending United Negro College Fund institutions, several groups of vocational schools and law schools.

The service also has included guaranteeing for lenders serving specific clientele on a nationwide basis, for lenders serving generally in more than one state, and for lenders finding performance of a local guarantor to be inadequate.

The Foundation is committed to continuation of these services, unless the Congress prohibits such activity by establishing territorial monopolies.

Statement
by
Richard C. Hawk
Chairman of the Board
Higher Education Assistance Foundation

Mr. Chairman and Members of the Committee:

The National Council of Higher Education Loan Programs, a voluntary association of student loan organizations, has recommended that the Congress amend existing law to prohibit a student loan guarantee organization from guaranteeing a loan in the territory of another guarantee agency. The effect of such an amendment* would be to establish territorial monopolies.

Establishment of protected territories could be beneficial to the Higher Education Assistance Foundation in two ways. First, the Foundation would be assured of a monopoly on all student loan guarantees in the five states and the District of Columbia, in which the Foundation is the "designated agency." Second, the Foundation would be fully relieved of any sense of responsibility to utilize its capabilities and resources to address unmet needs outside of its territorial monopoly.

In spite of those advantages to the Foundation and in spite of the desires of many student loan organizations for a territorial monopoly, the Foundation reluctantly must oppose the recommendation of the National Council, of which the Foundation is a member and of which I am immediate past President. This opposition is based on the considered judgement that establishing territorial monopolies for student loan guarantee agencies would not be sound public policy.

Territorial monopolies would have potentially damaging effects on the Guaranteed Student Loan Program and its effectiveness in meeting needs. Monopolies would (1) inhibit commercial lender participation in student loans, (2) deny educational institutions of significant sources of assistance for their students, and (3) reduce loan access for the intended beneficiaries of the Program--students. [1]

*Territorial monopolies would prevent a national organization with an identifiable, but geographi-

1. Some of the loss of loan capital availability could be made up by increased funding of state secondary markets financed with tax-exempt revenue bonds. The request for restrictions on both guarantees and loans from outside a territory in part reflects a desire to preserve opportunity for these programs.

cally dispersed, clientele--like Lutheran Brotherhood, for example--from making student loans to all its clientele except by dealing with a multiplicity of guarantee organizations with varying requirements and procedures.

*Territorial monopolies would preclude a lending institution which has centralized its student loan processing for all of its branches, such as Twin City Federal, from utilizing several newly acquired branches in another state for originating additional student loans, unless the institution is willing to bear the costs and complexities of processing loans in accordance with the differing policies and procedures of two guarantee organizations.

*Under territorial monopolies, a lending institution like Citibank, which has made a very substantial commitment to meeting a significant share of the need for student loans on a nationwide basis would either have to be limited in its student loan activity or would have to assume the burden of dealing with more guarantee agencies of varying size and procedures.

*If the Congress were to establish territorial monopolies for guarantee agencies, every lending institution would literally be at the mercy of the guarantor in its territory; an institution which, like the Hawkeye Bancorporation, found performance of the guarantor in its territory to be unacceptable would either have to terminate its participation in student loans or be subjected to a situation which it believed to be inadequate.

*Under a system of territorial monopolies, a group of universities, such as the United Negro College Fund which includes insitutions in some 12 states, could no longer benefit from the dramatic improvement in loan availability created by an effort like the UNCF Assured Access Program.

*Territorial monopolies would seriously impede, if not completely eliminate, a realistic opportunity for providing last resort programs for all of certain categories of students, such as those attending short-term vocational programs.

*Under territorial monopolies, a student having difficulty finding a loan with the guarantee of the agency in his or her state could no longer look to an alternative source of loans with the guarantee of another agency.

*Students and educational institutions would share with lenders the circumstance of being virtually at the mercy of a single guarantee agency with no alternative source of service to meet needs.

In short, without opportunity for an organization like the Higher Education Assistance Foundation to guarantee loans alongside of agencies operating in single states, as authorized in existing law, the needs of some students inevitably would not be met. The progress which has been made toward assuring full and equal loan access would be seriously disrupted. Effective participation by many lenders would be impeded, and the right of a lender to seek a guarantee organization providing an acceptable quality and quantity of service would be eliminated. Territorial monopolies for student loan organizations would be disadvantageous to lending institutions, schools and students.

As indicated by the Committee Report on the 1965 Act establishing the program, the Congress anticipated that the needs of all students could not be met with programs of state guarantee agencies. The Report not only recognized the need for an organization like the Foundation to provide service alongside of state guarantee agencies, the Report even suggested that Federal seed monies for a state might be awarded to both a state guarantee agency and an organization like the Foundation. That original Congressional conception has facilitated program effectiveness and has served to stimulate full and equal loan access.

No doubt territorial monopolies would make life more comfortable for those responsible for some guarantee agencies. A territorial monopoly would assure an organization of all loan volume in a state, even if the performance of the organization were marginal, even if service provided by the organization were less than fully satisfactory to recipients of the program, and even if all students did not have loan access due to practices of the agency. Perhaps most important, the organization enjoying the benefit of a territorial monopoly would be assured of revenues associated with all loans guaranteed within the territory.

Obviously, elimination of all alternative sources of guarantee agency service in a territory would maximize opportunity of each agency to impose its will on lending institutions, educational institutions, and students. The power gained through monopolistic control would enhance the status of any agency and would give the guarantee agency a *more critical role than these agencies currently perform.*

Enhanced status, a more critical role, greater power over program participants--these are significant advantages for guarantee agencies. Add the assurance of all revenues generated from all guarantee business in a territory and the advantages of territorial monopolies to guarantee agencies seem almost overwhelming.

Were it not for disadvantages to other parties, Congressional action to benefit guarantee agencies probably could be justified. Given the potentially negative impact on others, including the intended Program beneficiaries, public policy justification should reflect a genuine need for the proposed change, not simply a beneficial effect on providers of service. No compelling need for territorial monopolies exists.

Some have suggested that territorial monopolies are needed in order to prevent the Higher Education Assistance Foundation from becoming the single national guarantor of students. The fact is that the Foundation does not seek to become the nation's sole guarantee agency. The Foundation supports a system of multiple guarantors which provide alternative opportunities.

A major problem with a single national guarantee organization would be that future deficiencies in the performance of that organization could seriously diminish the effectiveness of the Guaranteed Student Loan Program. Moreover, if the Foundation or any other organization were to become the single guarantee agency in the country, the monopolistic situation created by that circumstance could lead to a lack of responsiveness and effectiveness in serving students, educational institutions and lenders.

The disadvantages of a single guarantee organization are no less for a state than for a nation. A student should not be limited to a single source of a loan guarantee any more than a student should be restricted to borrowing from a single lender or to attending a single institution of post-secondary education.

Guarantee organizations are service organizations and the quality of service rendered to the students, educational institutions and lenders can be enhanced by the motivating factors associated with knowledge that the recipient of the service has the right to obtain that service from another source. So long as an organization is assured that all business within a territory is reserved for that organization without regard to the quality of service rendered, the organization remains free to provide service at no higher level than the minimum level required for staying in business. Changing the territory from the nation to a state does not eliminate the major disadvantages of complete dependence on a single guarantor.

Some would contend that the protected territory is necessary to assure some minimum level of volume required for operational effectiveness. Some would suggest that the Higher Education Assistance Foundation is taking a share of volume which substantially damages other guarantee organizations. The facts do not support these contentions.

According to data from the Department of Education, the volume of loans guaranteed by the Higher Education Assistance Foundation during the first nine months of fiscal year 1983 equals <u>only 8.6%</u> of the total volume of loans guaranteed during that period. That 8.6% of total volume includes loans in the six states for which the Foundation serves as the designated guarantor, as well as loans guaranteed outside those six states. If the Law School Admission Council were being utilized at the maximum rate during this same period, the total volume of loans guaranteed by the Foundation still would have been under the percentage guaranteed by some organizations which operate only in a single state. The total volume of loans being guaranteed by the Foundation is not having any seriously damaging effect on the business of other guarantee agencies. Any depressing effect is more than counter-balanced by the increase in the access to loans being generated by the Foundation.

The charge that the availability of loan guarantees from the Foundation damages other student loan organizations to such an extent that the other organizations cannot operate effectively could be applied to the greatest extent in the instance of the Iowa guarantee agency. The Iowa agency has lost significant potential volume due to the decision of the Hawkeye Bancorporation to have loans guaranteed by the Higher Education Assistance Foundation. Incidentally, it was Hawkeye Bancorporation that approached the Foundation rather than the reverse. Officers of Hawkeye Bancorporation decided to seek a new source of guarantees based on dissatisfaction with the service being provided by the Iowa agency.

Even in this extreme situation, the data does not support the contention that action of the Hawkeye Bancorporation and the resulting loss of guarantee business to the Iowa guarantee agency has damaged the Iowa agency by leaving it with volume below that necessary for effective operation of an agency. According to Department of Education data, the Iowa agency guaranteed loans in an aggregate volume of nearly $44,000,000 during the first nine months of fiscal 1983. That is greater than the volume guaranteed by the agencies in such states as Alabama, Colorado, Georgia, Kentucky, Mississippi, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee and Utah. It is <u>four times greater</u> than the volume guaranteed during the same period by the agencies in Arkansas, Idaho, Montana, New Hampshire, South Carolina and Vermont. If the business lost by the Iowa agency as a result of Hawkeye Bancorporation's freedom to choose a different agency has caused the Iowa agency volume to be less than necessary for an adequate operating base, many other guarantee organizations clearly are operating on less than adequate volume.

The importance of guarantee agencies to the success of the Guaranteed Student Loan Program is great enough to warrant Congressional support for these agencies, and the Congress has provided subsidies to assure the survival of these agencies. In fact, the agencies are rather heavily supported by federal subsidies, which include an administrative cost allowance, reserve advances, and reinsurance payments based on a formula favorable to the agencies. Given the subsidies provided, Congressional action to assure an agency of all business within a territory is more Congressional assistance than necessary.

The recommendation for territorial monopolies was advanced by those who provided guarantee services, rather than by recipients of the services, because it is these providers, not the recipients, who perceive a benefit. The recommendation reflects concern of some student loan organizations about potential loss of guarantee business to the Higher Education Assistance Foundation.

That many student loan organizations should be fearful of competition from the Foundation is understandable. If not exceptional, the Foundation is at least atypical and guarantee agency directors, like most people, are suspicious of that which is different. Among the characteristics which make the Foundation distinctive are:

1. The Foundation is the "designated agency" for guaranteeing loans in five states, plus the District of Columbia. Most agencies are designated in only one state.

2. The Foundation does not require lenders to discriminate on the basis of geography or any other factors not prescribed by the Congress for determining borrowing eligibility. Most guarantee organizations will guarantee a loan only if the student is either a resident of a certain state or is attending an institution in that state, and some impose other requirements.

3. The Foundation assumes responsibility for full and equal access to loans in those states where it serves as the designated guarantor. Although all guarantee organizations seek loan availability, some have not assumed full responsibility for loan access.

4. To assure full and equal loan access, the Foundation engages in activities, such as operating statewide last resort lending programs, maintaining capacity for servicing loans held by commercial lenders, and stimulating certain commercial lenders to serve the unmet need for students in particular institutions and/or locations. Although other guarantee agencies engage in some of these activities, most have not undertaken such an ambitious set of activities to facilitate loan access.

5. The Foundation offers its guarantee to any commercial lending institution which complies with Foundation policies and Federal regulations on guaran-

teed student loans without regard to geographical location of the lending institution. Most guarantee organizations issue guarantees only to lenders within a limited area.

6. The Foundation has operated for only six years. Many guarantee agencies have operated much longer.

A second reason that the Foundation seems threatening to some other student loan organizations is that the Foundation has demonstrated an ability to operate effectively with less public subsidy than has been enjoyed by many guarantee agencies. For example:

1. The Foundation was initiated without the advantage of either financial support from any state or the benefit of federal funds made available as "seed monies" under the 1965 Act. Most other guarantee organizations were the recipients of Federal seed monies for establishing or strengthening reserve funds, and many also were the beneficiary of subsidies from a state in the form of appropriations and/or free services.

2. Since voluntarily returning $10.8 million to the Secretary of Education in May of 1983, the Foundation has been the only guarantee organization to operate without any reserve advances from the federal government. Most guarantee agencies continue to have benefit of both seed monies provided by the 1965 Act and additional reserve advances authorized by the Congress in 1976.

In addition to the distinctive nature of the organization and its ability to operate effectively with reduced public subsidies, the Foundation has achieved an enviable record of success. Among the indications of general success of the Foundation operation are:

1. By issuing guarantees for loans in an aggregate amount of nearly 2 billion dollars, the Foundation has become one of the larger guarantee organizations in the nation in only six years.

2. Through sound management practices and effective control of costs, the Foundation has achieved increasing financial strength reflected by accumu-

lation of a fund balance of nearly 25 million dollars, a reserve fund of nearly 35 million dollars, and total assets of nearly 60 million dollars, without benefit of all public subsidies enjoyed by most guarantee agencies.

3. The number of lenders agreeing to make loans with the Foundation's guarantee has grown to 1,900-substantially more than the number making loans with the guarantee of most other agencies.

4. The Foundation has accomplished a significan. reduction in the guarantee fee charged to students, in spite of the fact that the Foundation operates without state subsidies or Federal reserve advance funds enjoyed by other agencies.

The Foundation also has demonstrated an ability to perform effectively in difficult situations. One example of this ability is in the District of Columbia. Not only did the Foundation undertake the guarantee of loans following the demise of a previous guarantee program in the District, the Foundation also successfully undertook a commitment to generate sufficient loan capital to assure full loan access for District students in spite of some stigma on student loans in th District among sources of loan capital.

Through successful performance, the Foundation has demonstrated that a state may rely exclusively on the Foundation with confidence that (1) full and equal access to loans will be achieved in that state, and (2) lenders and schools will receive effective and efficient service. Given these benefits to a state which chooses to rely on the Foundation, it is, in the words of one guarantee agency director, "the very existence of the Foundation which is threatening to other student loan organizations."

As if these factors were not enough, the Foundation also has been an advocate for reducing the federal subsidy to student loan organizations. The Foundation was a spokesman in favor of reducing to one-half the special allowance formula for tax-exempt loan programs, including those operated by the Foundation, and the Foundation continues to advocate a change in the reinsurance formula which would reduce the financial burden on the federal government and increase the financial responsibility of student loan guarantee agencies. Many student loan organizations are less supportive of reduced subsidies for their organizations.

Perhaps most disconcerting to some other student loan organizations has been the willingness of the Foundation to participate in programs targeted at certain student populations which extend beyond the lines of a single state and for which responsible parties perceive some problem in adequacy of loan access. Because these targeted student populations are not confined within a single state, the contributions of the Foundation in assuring availability of loans for such targeted student populations has been viewed by student loan organizations serving individual states as an assault on potential business for those other organizations.

A prime example of the Foundation's contribution in assuring access to an identifiable student population is the assured access program for students attending the 42 institutions of the United Negro College Fund. These institutions are located in some 12 states. Their common characteristic is not that they are located in a geographical area within the borders of a single state, but that their mission is to meet the educational needs of a certain student population. Prior to the assured access program for UNCF institutions, utilization of guaranteed loans for meeting needs of students in UNCF institutions was limited due to loan access problems.

The Foundation has participated for some time in efforts to assure loan availability for students attending certain groups of vocational schools which are located in multiple states and serve students from a rather wide geographical area. Examples of such groups are schools operated by Bell & Howell, ITT, Cencor and AIHCO.

Deficiencies in loan access for students attending vocational schools has been one of the persistent problems of the Guaranteed Student Loan Program. Financially, loans to vocational school students a.~ among the least desirable for both the guarantor and the lender. Due to the short term nature of vocational programs, loans to these students do not offer the advantages of an extended in-school period, which is the most financially favorable period on a student loan. Moreover, loans to vocational school students provide minimal opportunity for serialization because these students do not have the need to borrow for multiple years. Lack of serial loans causes low average indebtedness which, as compared with other loans, is costly for both the guarantee organization and the lender.

Other examples include guarantee service to institutions, such as the University of Chicago, which have problems with guarantor requirements in their states and service to students and institutions in states such as South Carolina, which have loan access problems. In the instance of South Carolina, it is several West Virginia banks which have filled in the gap by originating loans with the Foundation's guarantee to South Carolina students at the request of financial aid officers in that state.

The most recently implemented program in which the Foundation is participating to meet the needs of a defined population which extends beyond state lines is the Law School Assured Access Program under the auspices of the Law School Admission Council. This program, which was initiated with guarantee and supporting services from the Foundation, permits a limited number of students attending law schools throughout the nation to obtain a guaranteed student loan from the First American Bank in Washington, D.C.

Unlike the UNCF program and programs of loans to meet the needs of vocational school students, the Law School Assured Access Program stimulated a substantial negative reaction from other guarantee agencies. Perhaps such a reaction should have been anticipated. Loans to law students are generally viewed as less risky than loans to students attending the UNCF institutions and more profitable than loans to vocational school students.

The assured access program for law students has been characterized by representatives of some student loan organizations as an attempt to skim off high balance loans from other guarantee agencies. Some have expressed fears that the Law School Assured Access Program is intended to attract all loans to law school students, thereby depriving other organizations of opportunity to guarantee loans for any law students. Some have suggested that the Foundation acted inappropriately in agreeing to guarantee loans under the Law School Assured Access Program because the need for the program is not certain.

The fact of the matter is that the Law School Assured Access Program is not intended to replace other lending to law school students. The limited funds available under the program assume continued availability of loans from other sources.

With respect to need for the program, an organization which is intimately involved with law schools, the Law School Admission Council, clearly perceived the need for an additional dependable source of student loans for law schools. A perception of student loan organizations that no need exists is not necessarily more valid than a perception of the Law School Admissions Council that a need does exist.

The only certain way to determine the extent of need for a student loan program is to make the program available and observe its utilization. As anticipated, two-thirds of the guarantees issued thus far have been for ALAS loans, the availability of which has been much more limited than has availability of regular guaranteed student loans.

It is likely that loans to law school students will increase significantly as a result of the access to loans created by the new program. At the very least, law students will benefit from increased availability of loans.

Officers of other student loan organizations are concerned that the existing programs providing loans for students without regard to geographical location are not all such programs which may emerge. This concern is justified as indicated by two new programs in process.

One new program is a fairly comprehensive last resort program for students attending vocational institutions. The program, which is in addition to the Foundation's existing efforts to provide loan access for vocational students, will commit $100 million annually - a major contribution to resolving deficiencies in loan access for vocational students.

In an effort to assure that funds provided through this program will meet needs of students who otherwise would have difficulty in obtaining a loan in a timely manner and in order to minimize any loss of volume by other guarantee organizations, the program will be operated as a last resort program. Instructions to schools will make clear that loans from this program are to meet needs which otherwise might not be met effectively.

The Foundation also has participated in the formulation of a plan to provide a readily available source of loans to be utilized throughout the nation in meeting loan needs of students who have difficulty in obtaining a loan from existing sources. Under this program, financial aid administrators will be utilized to identify those students who are having difficulty in obtaining a loan. The financial aid officer will be encouraged to forward only those applications from students who need to take advantage of a second resort program. Through this approach, responsible effort will be made to cause loans from this last resort program to be utilized for students whose needs otherwise might not be met. This will minimize loss of guarantee volume by other guarantee agencies.

As with the existing efforts in which the Foundation has participated, these two new innovative programs are designed to (1) enhance the over-all effect of the Federal Guaranteed student loan program, (2) stimulate and facilitate full and equal access to loans among all students, (3) maximize participation and cooperation of organizations willing and able to meet student loan needs, and (4) create a dependable source of funds for students who have difficulty in obtaining loans to meet their individual needs. The potential benefits of these new ventures are substantial.

In view of the significant benefits to students and institutions, these two new programs are worthy of consideration for moral support from this committee. We are pleased to have contributed to their development.

Senator STAFFORD. I think we will go in order as listed. That means, Mr. Mirandon, that you would be the next witness.

Mr. MIRANDON. Mr. Chairman, Senator Randolph, Senator Grassley, members of the staff, my name is Bill Mirandon. I am the chief executive officer of United Student Aid Funds, which is a private, not-for-profit organization, whose primary purpose is to provide total access to guaranteed loans for all eligible students and parents.

United Student Aid Funds has provided access to almost 2 million borrowers by guaranteeing and processing approximately $5.2 billion in federally and privately guaranteed student loans on a nationwide basis for the past 23 years. We still have contractual obligations with schools, lenders, and other institutions, going back to 1960. These institutions will be happy to testify before your committee

We have served as many as 17 States, the Virgin Islands and the Pacific Islands, many times as a "bridge" to help them create and establish their own self-reliant agencies. In 1975-76, United Student Aid Funds was a leader in bringing about the decentralization of the GSL program, and in working to perfect its extraordinary success, as well as in providing access wherever required.

It has never been our policy or philosophy to take over a State agency, or a substantial part of it, but rather to help it and its students. We believe our philosophy is unique, and our mission is special.

I appreciate the opportunity to convey to you how destructive any proposal would be to restrain participation by United Student Aid Funds. The program was never intended to be limited to States exclusively, but to assure adequate access to loans throughout the Nation to all students, not merely students of a particular State. If it had been intended solely for State agencies, the law would have indicated this fact, and funding would not have been provided for the participation of nonprofit private organizations such as ours.

We believe that Congress in its own wisdom knew that private nonprofit organizations like United Student Aid Funds not only had been helping students for a long time prior to 1976, but that we were needed thereafter to assure that all eligible students did obtain loans. In fact, shortly before the 1976 amendments were passed, United Student Aid Funds was asked by Congress if we would take up the slack of the faltering FISL program while new agencies were being established. We agreed to do so. Again, our philosophy is to help students. We had been around a long time before the financial incentives of 1976 encouraged opportunists to enter the scene, and we were not motivated by financial incentives and clever ways to capture more income.

The local State agencies have a distinct advantage over any outside agency's program, because they are closer to their lenders, to their schools, to their legislatures, and to their students. They should, of course, run an efficient, full access program in their own localities. The mature, experienced agencies see no threat from our supplemental activity, which provides access to guaranteed loans on an average of about 2 percent of the entire guaranteed student loan program—that is, guarantees by United Student Aid Funds itself. Yet, this 2 percent, and possibly a hidden 2 or 3 percent more, is extremely important. United Student Aid Funds, a nationwide guarantor with toll-free lines for student inquiries, receives about 1,500 calls and letters from students and parents a month. We refer most inquirers to their appropriate State agencies, but possibly 300 a month must turn to us for help. This lack of access is usually caused by State restrictions the unwillingness of some lenders to lend to certain students who are normally eligible and the ab.ence of participating lenders in certain areas of the country.

United Student Aid Funds sympathizes with those agencies which have been taken unawares by entrepreneurial types who are interested in capturing revenue, to reap underwriting fees from tax-exempt revenue bonds, and to gain new spheres of influence. We ourselves have been the victims of such unwarranted intrusion in Arizona and Oklahoma, so we do recognize a problem exists. But to place restraints upon the ethical participants such as United Student Aid Funds, would be counterproductive.

United Student Aid Funds advocates and is willing to abide by ethical standards and principles of the National Council of Higher Education Loan Programs—NCHELP—the membership organization of all agencies, of which we are a charter member. NCHELP has created a committee on standards of ethical conduct to keep order among its members. This committee's recommendations are in the process of being formulated. The membership of NCHELP certainly can police itself. We are as eager as you are to have the results of this committee's deliberations. But to over-react by creating a discriminatory law that would lead to inadequate access and that requires a debilitating process of obtaining bureaucratic per-mission to help students who obviously need help is not in keeping with the American tradition of freedom to act responsibly.

It is senseless to restrain schools, students, lenders, from easy access to the free marketplace that is so vital to education. This hasty proposal to limit nonprofit guarantors and multistate lenders, such as Citibank, will undoubtedly lead to unfortunate results, including long delays in the delivery of loans, bureaucratic inefficiencies, lender disenchantment, policing of unnecessary regulations, and finally, the reintroduction of a centralized program in Washington, D.C., in order to reduce the access problems. A lack of access is inevitable if we are denied participation. As a result, all of us in both the State and private agencies who have brought about the highly successful decentralized program, may see it returned to Washington where it fared so poorly before.

We might, then, if we see this return to Washington, be the victims of our own self-inflicted mortal injury. To limit the participation of nonprofit guarantors and multistate guarantors, I repeat, is unwise.

Let me summarize—as I see the yellow light turn on. Although we have been placed on the same panel, we are philosophically opposed to the Higher Education Assistance Corporation's approach to taking over a State completely or a significant amount of its business, and seeking to maximize the subsidized flow of revenue. We supplement, but do not supplant. We take calls from students, as opposed to soliciting calls from students. We are not interested in satisfying our greed, but the need of students.

There is strong reason to argue that there should not be a restraint of trade in our case. Our contractual obligations, some going back to before 1965, should not be impaired. We have contracts in unique, worldwide, assured lender programs, with the Air Force, the Navy, Mobil Oil, General Electric, RCA, Western Electric, the Ford Foundation for Black Lawyers, the Robert Wood Johnson Foundation—all of these, plus other programs that certainly are beneficial to students, and which no single State agency can handle alone. We are willing to share these programs with State agencies.

Finally, we believe NCHELP can police itself—it has not yet tried. We believe the Department of Education should oversee and referee this Federal program, but we do not believe you can legislate good manners.

I thank you very much.

Senator STAFFORD. Thank you very much, sir.

The next witness would be Mr. Biklen, and if I mispronounce your name, I apologize.

Mr. BIKLEN. You have it correct, Senator.

Mr. Chairman, and members of the subcommittee, thank you very much for the invitation to testify at this hearing. I am Steve Biklen, vice president in charge of Citicorp's student loan business, which is located in Rochester, N.Y.

The issue which is being discussed today is a very complex one, and in order to provide a backdrop to that, I would just like to spend a minute or two and update you as to how we became a national lender.

Up until 1979, we pretty much operated only in New York, under the auspices of the New York guarantee program. In 1979, however, we built a processing center up in Rochester and made a full commitment to this business.

Recognizing that the student loan business was growing and that there was need throughout the country, we solicited a good number of State guarantee agencies in areas that we thought there might be unmet need. That solicitation offered our services as a lender under their programs and resulted in our entry into several States under their guarantee programs—into States such as California, Missouri, Washington, and, most recently, Colorado.

Additionally, at the request of the Tennessee and North Carolina guarantee agencies, we set up a lender-of-last-resort program, utilizing the Federal guarantee. Other States where we perceived there might be loan access problems declined our offer to participate, stating there were no access problems. Many of these States subsequently set up tax-exempt secondary market operations.

In 1982, we were approached to set up a guaranteed access program for students attending schools making up the United Negro College Fund. Those loans are guaranteed by the Higher Education Assistance Foundation. This year, we have been approached by two organizations of vocational schools to set up a program to make loans available to them. The details of that program are being worked out, and we anticipate that we will make loans incremental to loans we are making to those students today, sometime later this year.

As you can see, our evolution as a national lender was prompted by the recognition that not all the demand for guaranteed student loans was being met, and this perception was strengthened by the fact that we began to receive applications from students in many States that we had no involvement with, asking for a federally insured loan from us. We satisfied those application requests, but they come in from a number of different areas of the country, primarily in the South.

Given the complexity of the issue, we think it would be a mistake to legislate against the concept of lending or guaranteeing loans across State borders, because we think students who have justified need would be eliminated from the program. We do have some recommendations, however.

It is our experience that State guarantee agencies normally have a close working relationship with the schools within their States. If there is a particular problem, and if an outside guarantor or an outside lender has approached schools to make loans to those students, we would recommend that the local guarantee agency work it out with the schools involved; there is a problem or there is not, and I would think that they could work it out.

Second, some of the assured access programs may be more attractive to schools and to students because of certain characteristics. I think the Congress could standardize the guaranteed student loans so that it would be impossible for a guarantee agency or a particular lender to offer a more attractive product. Specifically, I am talking about the insurance premium—that could either be standardized or eliminated if we went to 100 percent reinsurance, which has been talked about. Second, there is one program currently available, the Law School Admissions Council assured access program, that offers students the ability to defer interest on their ALAS loans. Sallie Mae is involved in that program, and I believe they can carry the additional cost of carrying that interest, simply because they have lower cost funding than other lenders. We could not begin to offer that program, simply because the cost of carrying that interest receivable until a student graduated would be prohibitive. If Sallie Mae's competitive funding advantage were eliminated, or if the ALAS loan program were standardized so tht in all cases, students must pay interest beginning immediately, or Congress authorized all lenders to capitalize interest on ALAS loans on a quarterly basis, then either all ALAS loans would be the same, or all lenders could offer the deferred interest feature, and there would be no advantage for the student to seek loans from out-of-State sources.

There are some other recommendations we have which are along those lines, which are in my written testimony, but in the interest of time, I would just summarize.

As I said, we believe the issue of national guarantee agencies and national lenders is a complex one. We strongly believe it would be a mistake to eliminate student access to student loans through restrictive legislation. Legislation along these lines would have the effect of eliminating access to too many students, many of whom are the most needy. We think the solution is for the individual States and State agencies to work it out between themselves. However, the Congress might want to consider fuller standardization for the guaranteed student loan product so that the product would be the same regardless of who it was offered by.

Thank you very much for the opportunity to testify at this hearing, and I would be more than happy to answer any questions.

Senator STAFFORD. Thank you very much, Mr. Biklen.

[The prepared statement of Mr. Biklen follows:]

TESTIMONY

OF

STEPHEN C. BIKLEN, VP
CITIBANK (NEW YORK STATE), N.A.

Mr. Chairman and Members of the Subcommittee:

Thank you very much for the invitation to testify at this hearing. I am Steve Biklen, Vice President in charge of Citicorp's Student Loan Business, which is located in Rochester, New York.

The issue which is being discussed today is a very complex one. In order to best address it, it is appropriate to review Citibank's participation in the Guaranteed Student Loan Program. Citibank is viewed as a national lender and I think an understanding of our evolution as such will provide a backdrop to a discussion of the issues involved.

Up until 1979, Citibank was an originator of guaranteed student loans only under the New York State Guarantee Program. Additionally, however, Citibank purchased federally insured student loans from Bell & Howell Education Group, Inc., and ITT Educational Services, Inc., in accordance with contracts that had been entered into with those institutions in 1977 and 1978 respectively. These contracts were negotiated with those institutions in order to insure that students attending their schools had adequate access to guaranteed student loans. If a student could not obtain a loan from a local lending institution then either ITT or Bell & Howell would originate the loan and subsequently sell it to Citibank.

In 1979, Citibank built a processing center in Rochester, New York, dedicated solely to the processing of student loans. This center was concrete evidence of Citibank's commitment to the guaranteed student loan business and enabled the Bank to efficiently process loans on a totally dedicated computer system.

At this time the Guaranteed Student Loan Program was growing extremely rapidly and it was clear that not all of the demand for loans across the country was being met. Recognizing this, Citibank solicited state guarantee agencies in areas where we perceived there might be an inadequate supply of loan capital. This solicitation offered Citibank's services as a lender under the particular state agency's guarantee program. These solicitations resulted in our entry into several states under their Guarantee Programs. These states included California, Missouri, Washington, Colorado, Arizona, Montana, Hawaii and Idaho. Additionally, at the request of the Tennessee and North Carolina Guarantee Agencies we set up a Lender-of-Last-Resort program utilizing the federally insured guarantee. This was done because of legal and procedural problems with respect to qualifying under those states' guarantee programs. However, the programs were administered by the two guarantee agencies.

Other states where we perceived there might be loan access problems declined our offer to participate, stating there were no access problems. Many of these states subsequently set up tax exempt secondary market operations.

It was our experience, however, that there were still many pockets of unmet need across the country. This was evidenced by inquiries we received from students from various states particularly in the South, requesting FISL application kits. We believe that many of these students heard of our activities by word-of-mouth as a result of our Lender-of-Last-Resort programs in North Carolina and Tennessee. In such cases we furnished application kits to these students.

In 1932, we were approached to set up a guaranteed access program for students attending schools comprising the United Negro College Fund. The loans are guaranteed by the Higher Education Assistance Foundation. This program resulted in a commitment to originate up to $10 million in loans for the 1982-83 school year and up to $20 million for the 1983-84 school year.

In 1983, we developed the capability to originate auxilliary loans to assist students under both the New York and HEAF Programs. In the case of New York, loans were made available only to students attending New York schools or to New York residents attending out-of-state schools. In the case of HEAF, however, the loans were made available to students attending schools across the country. There was evidence that the ALAS Program was not widely available and we advised schools across the country that we were willing to make such loans to fulfill student needs. The majority of schools have welcomed the availability of this program, while in certain instances some schools have indicated that local supply was available to satisfy demand.

Additionally in 1983, we were approached by two organizations of vocational schools to set up a program to make loans available to their students. These two organizations have requested that we make available $300 million over the next three years to students attending the constituent schools. This commitment will be incremental to the loan originations that Citibank is already doing for many of these schools. We anticipate that the details of this program will be finalized over the next few weeks.

The preceding is a brief history of Citibank's evolution as a national lender. As you can see, its evolution as such was prompted by the recognition that not all of the demand for guaranteed student loans was being met. This perception was strengthened when we began receiving application requests from students in many states with whom we had no previous involvement.

Given the complexity of the issue, we believe it would be a mistake to legislate against the concept of lending or guaranteeing loans across state borders. There is no question in our minds that such legislation would limit the access of many students to the guaranteed student loan program. Citibank also recognizes that the original intent of Congress was to administer the guaranteed student loan program through the decentralized guarantee agencies in each state and we believe that this concept can continue to work and offer the following solutions:

1. It is our experience that state guarantee agencies normally have a close working relationship with the schools within their states. If a school is approached by an outside guarantee agency with a new program, it should be up to the local guarantee agency to work with the school to determine whether or not an access problem exists. If there is no problem, then the school would not need to make loans available to its students from the out-of-state guarantee agency. If, on the other hand, an access problem did exist, the school may want to make those loans available to its students. The point is that the local guarantee agency should be working with the school to resolve any access problems.
2. Some of the assured access programs may be more attractive to schools and to students because of certain characteristics. The Congress could standardize the guaranteed student loan so that it

would be impossible for a guarantee agency or a particular lender to offer a more attractive product. Specifically I am talking about: A.) The insurance premium. If all insurance premiums were required to be equal, then there would be no advantage of one loan over another. Along these lines the insurance premium could be eliminated if 100% reinsurance by the Federal Government were to be implemented, as is currently being discussed. B.) Deferred interest. At least one assured access program for the auxilliary loan to assist students, the Law School Admissions Council Assured Access Program, offers the student the ability to defer interest rather than to pay it on a current basis. This is very favorable to students, but very costly for the lender, particularly in the third year of a law school program, because the lender cannot capitalize the interest until the student graduates. The lender would have to pay the cost of funding the interest and earn nothing on it. In the case of the law school program, however, Sallie Mae is the ultimate lender and is in a better position to absorb this additional cost. Sallie Mae's cost of funds is cheaper than a bank lender's due to the $5 billion in low cost funds obtained from the Federal Financing Bank and the wider acceptance of its debt instruments in the marketplace because of its government charter. If Sallie Mae's competitive funding advantage were eliminated, or if the ALAS loan program was standardized so that in all cases the student must pay interest beginning immediately, or if the Congress authorized all lenders to capitalize interest on ALAS loans on a quarterly basis, then either all ALAS loans would be the same or all lenders could offer the deferred interest feature and there would be no advantage for the student to seek the loan from an out-of-state source. C.) Loan consolidation. In the case of the same assured access Program, where a student obtained both a $5,000 guaranteed student loan and the $3,000 ALAS loan the student then qualifies for the consolidation program and this could be made known to the student at the outset. Only Sallie Mae can offer loan consolidation as it is currently structured and Sallie Mae was involved in this program. If all lenders were able to offer the consolidation program or if the consolidation Program were modified so that it was only made available to student borrowers who had payment difficulty, then this attractive aspect would be eliminated. Again there would be less reason for the student to go out of state for his or her loan.

3. As a last resort, if the Congress does insist upon legislating upon the issue of national guarantees, it might be appropriate to allow students to obtain loans from out-of-state lenders with an out-of-state guarantee only if they have received a signed refusal statement from a local lender. This is somewhat burdensome administratively. However, it has worked to the extent that we have used that approach with respect to the Purchase of student loans originated by Bell & Howell. Bell & Howell would not originate the loan unless such a statement was obtained by the student.

In summary, we believe that the issue of national guarantee agencies and national lenders is a complex one. However, we strongly believe it would be a mistake to eliminate student access to student loans through restrictive legislation.

Legislation along these lines would have the affect of eliminating access to too many students, many of whom are the most needy. Rather, we think the solution is for the individual states and state agencies to work it out between themselves. Additionally, the Congress might want to consider fuller standardization for the guaranteed student loan product so that the product would be the same across-the-board and not more attractive depending upon who offered it.

Thank you very much for the opportunity to testify at this hearing, and if you have any questions, I would be more than happy to answer them.

Senator STAFFORD. The Chair will comment at this point that we are pleased that constructive suggestions are being made this morning, that we are sure the committee will want to consider, from all of the witnesses thus far.

Mr. Bullard, you are next.

Mr. BULLARD. Thank you, Senator.

Because our company's activities may have in part precipitated your consideration of legislation that, in my opinion, restricts or prohibits a lender's choice of student loan guarantee agencies, we very much appreciate this opportunity to set the record straight.

Our company's student lending program is known as the Iowa higher education loan program, or IHELP. It involves some 62 financial institutions, and accounts for approximately 30 percent of the student loans originating in Iowa. We are active lenders, whose purpose is to provide a consistent and reliable source of loans for students and schools.

Beginning in the fall of 1980 and continuing through 1981, the level of service provided by our Iowa guarantee agency deteriorated significantly. Applications took 40 days or more to process. Notices of guarantee were inaccurate or totally missing. Duplicate and triplicate guarantees were issued for the same borrower; none of them were correct. The actual loss of over 1,000 applications presented some very real problems for our bank people out on the firing line.

To say that we were concerned for the effectiveness of our program is probably a gross understatement. When you are faced with a swamp full of operational alligators, you look for a little high ground, and that is what we felt the Higher Education Assistance Foundation provided us. After considerable investigation of HEAF's capabilities, and Department of Education assurance that their guarantee of our loans was permissible, we began processing HEAF guarantees in March of 1982. Since that time, the Hawkeye-HEAF relationship has been the subject of allegations and innuendos from numerous quarters. Additionally, the Iowa agency threatened termination of our bank lenders' agreements in April of 1982 and then did it for real in November. While the November termination is still under appeal, I think you can appreciate the difficulty of conducting an effective student loan program in such an environment. You may also be aware that the Iowa agency requested the Secretary of Education resolve this apparent problem. While the Secretary has gone on record approving the Hawkeye-HEAF relationship and expressing the hope that the Iowa agency will coexist with private agencies, in an environment of healthy competition, we have not seen many signs of peaceful coexistence in Iowa.

Let me try to relate our Iowa experience to this amendatory legislation that you are now considering. First, in my experience, difficulties between lenders and guarantors only impact students and schools. Those are the persons who are supposed to be the real beneficiaries of the guaranteed student loan program. If the difficulties get out of hand, the lenders will disappear, and in the final analysis, the program ill disappear, because the lenders provide the funds to make it function.

Lenders must be free to seek guarantors who provide the most cost-efficient and effective level of service. This is strictly a business judgment, no different from selecting a supplier of data-processing services or envelopes. A bank serves three masters: its community, the employees, and its stockholders. If it fails the latter, it loses the opportunity to serve the other two.

The amendment that you are considering will create, in my opinion, a series of monopolies in the individual States, which may or mav not be responsive to the needs of schools, students, and lenders. If not, who is going to correct the situation? In our experience, it will not be corrected by those who created it.

As you should be aware, State monopolies would be fairly free to set their own rules. In Iowa, we have heard a good deal about "No loans to freshmen," "mandatory cosigners," and "Don't advertise student loan capacity." We strongly believe that the availability of competitive guarantee services has kept the program responsive and not limited to the whims or dictates of a few individuals.

In my opinion, the existing law already provides a competitive system of checks and balances that can keep the program as broad as it was intended and make the persons involved responsive to administrative and servicing needs of those it is supposed to serve.

Who is seeking the change? From what I have been able to learn, it is not the students, the schools, nor the lenders. I would submit to the committee that the program really seems to be working quite well at this point. Why would you try to fix it?

Thank you.

Senator STAFFORD. Thank you, Mr. Bullard.

Mr. Hawk, could you tell us the circumstances under which you entered into an agreement to guarantee student loans for Hawkeye Bank and for the Law School Admissions Council? Did you suggest such an arrangement, or is this solicited by other parties? Does the Higher Education Assistance Foundation determine there is an access or service problem in a State before it enters into a guarantee arrangement for making loans available in that State, and if so, how is this determination made? I realize I have asked about three questions in one here.

Mr. HAWK. Mr. Chairman, if I may, I will take them in the order that they were asked.

Senator STAFFORD. All right.

Mr. HAWK. Mr. Bullard, of course, has just addressed the issue with respect to the Hawkeye Bancorporation. The Higher Education Assistance Foundation did not approach the Hawkeye Bancorporation in an effort to solicit their participation with the Higher Education Assistance Foundation. The Higher Education Assistance Foundation did not approach Hawkeye Bancorporation for any purpose even remotely close to that. The approach was the other way around. It was officers of the Hawkeye Bancorporation that came to the Higher Education Assistance Foundation as part of their effort to determine some kind of guarantee arrangement which, in their judgment, would be more adequate than the one which they were experiencing.

In the case of the Law School Admissions Council assured access program, the approach to us was by the Law School Admissions Council representatives.

As far as suggesting such an arrangement, the Higher Education Assistance Foundation would not, in the case of Hawkeye Bancorporation, say, "You have to prove to us that there is a need for you to have a different kind of service before we will consider guaranteeing your loans." The same thing is true with the Law School Admissions Council. The Higher Education Assistance Foundation did not say, "You have to prove to us that there is a need, or that the students about which you are concerned cannot obtain loans before the Foundation will make the service available."

Now, in the case of the Law School Admissions Council program, I think we had every reason to believe, based on the data which was available, that access to ALAS loans, which are designed to serve graduate and professional students, was not fully adequate in this nation at that point in time, and I do not think it still is. As a matter of fact, there are some problems associated with that program, which we have addressed in other contexts. But nonetheless, it is the best program we have to meet the needs of those kinds of students, and as such there does need to be access.

We do not require that there be proof any more that we require that there be proof on the part of the United Negro College Fund or vocational school students. As a matter of philosophy, we do believe that it is better for a student to have two opportunities than to have a situation in which a student has no opportunity. So, if we make a mistake, we would rather make the mistake on the side of providing more opportunities than are necessary to meet the needs of the students than making a mistake on the side of making sure there are not too many opportunities and hence, denying some students the opportunities which they deserve.

Senator STAFFORD. Thank you very much.

Mr. Bullard, why did Hawkeye Bank decide to ask the Higher Education Assistance Foundation to guarantee its student loans? Did your previous guarantee arrangement not provide adequate access to loan capital for students?

Mr. BULLARD. The previous guarantee agency, as I have testified, had deteriorated in its quality of service to the point that it caused real operational problems for our company. That was our reason for our approach to Mr. Hawk's organization.

Senator STAFFORD. All right.

Mr. Biklen, under what circumstances would you choose to make a guarantee arrangement with a national guarantor, as opposed to a State agency?

Do you believe that such an arrangement provides for better access to loans for students?

Mr. BIKLEN. Originally, when we started out going outside of New York, as I said, we solicited all of the States, and in those situations where, for example, California, if we are operating under that program, if a California student came to us for a loan, it would be made under that guarantee agency. When we began getting requests for applications from students in States we did not operate in, at that time, we utilized the Federal guarantee.

Last year, the Department of Education announced that they were going to phase out of the business of guaranteeing loans, so at that point, we made an arrangement with the Higher Education Assistance Foundation to pick up the guarantees in the event that the Department of Education did stop guaranteeing loans. So we are at the point today that if we get a request from a student in a State under whose guarantee program we do not operate in, then we would make the loan with the guarantee coming from the Higher Education Assistance Foundation.

We also work with United Student Aid Funds, under some of their programs, and where the applications came through, that means we would use their guarantee.

Senator STAFFORD. Do you take any steps to ascertain whether or not students who apply might be eligible for aid under State agencies before you allow them to take out a loan?

Mr. BIKLEN. No; we do not do it on an individual, loan-by-loan basis. However, we have on occasion asked the student why they came to us over the telephone lines, and they have indicated that they have had problems getting loans. But we do not require that they give us evidence on a loan-by-loan basis.

Senator STAFFORD. Then, you do not take any steps to ascertain whether or not a student might just be eligible for sufficient grants and other assistance, and not be fully aware of it, so that the student would not need a loan from an agency like yours?

Mr. BIKLEN. No; we do not question the students, but as I say, we have on occasion taken a sample of requests coming in and asked them why they came to us, and they have indicated they could not get a loan.

Senator STAFFORD. I see. All right, thank you.

Mr. Mirandon, how does the United Student Aid Funds decide to enter into a guarantee arrangement in a State?

Do you believe that your organization or your counterpart State agencies can adequately determine whether there is an access problem in a State?

Mr. MIRANDON. Generally, we are called upon by many of the schools that we have represented since 1960 and which are tied to us with contracts. When schools call to say, "We need specific help," we afford that help. This generally causes us to recognize that there are access problems in certain States. I doubt that some States will agree that they have problems.

However, in all cases, we meet the school's request for help on a supplemental basis. Again, we are not going to take over all the loans of that school. For example, the independent schools and colleges of Oregon have used the Collins Foundation to create supplemental loans for nonresidents and parents. Idaho is an example of another State that has used its relationship with us going back to 1963, I believe. The same authority that appointed the State agency has asked us to step in and help out on a supplemental basis. Oklahoma, Arkansas, Louisiana, New Mexico, North Carolina College Foundation—I can go on with a long list, where we do supplement the need for loans which obviously exists in those areas. I do not think they will deny that there are problems in certain States.

I hope I have answered that question.

Senator STAFFORD. I think you have.

Senator Randolph, do you have questions?

Senator RANDOLPH. Yes; in a moment, I will ask a question or two. I have been requested, Mr. Chairman, by Senator Pell, who wishes inserted in the record a "Guaranty Agency Questionnaire," which has been prepared by the National Commission on Student Financial Assistance. He further indicates this addresses and assesses the extent to which guaranty agencies, lenders, and State secondary markets impose restrictions on GSL borrowing.

I make that request on behalf of our colleague.

Senator STAFFORD. Certainly. Without objection, we will place that in the record.

Senator RANDOLPH. Thank you very much.

[The following was received for the record:]

GUARANTY AGENCY QUESTIONNAIRE

Steven Leifman
Senior Research Associate
July 19, 1983

The National Commission on Student Financial Assistance conducted a survey of guaranty agency directors to assess the extent to which guaranty agencies, lenders and state secondary markets impose restrictions on GSL borrowing which go beyond federal regulations.

The survey was conducted to learn the perspectives of guaranty agency directors on the scope of this issue. Agency directors' were asked for their best estimation of the proportion of certain restrictions imposed by lenders. The responses do not reflect the volume of loans in each state.

FINDINGS

Of the 56 questionaires sent to guaranty agencies, 53 were returned.

Commercial Lenders (see Table 1)

Forty-nine agencies reported using commercial lenders. The three most often-cited restrictions were:

o The most common restriction imposed by commercial lenders was the requirement of a previous customer relationship.

A large majority (37) of agencies reported having between 25 percent and 89 percent of their commercial lenders requiring a previous customer relationship before they would make a loan.

Six agencies reported having between 5 percent and 24 percent of their commercial lenders imposing this restriction. while 5 agencies reported that virtually no commercial lenders required a previous relationship. One agency reported that nearly all commercial lenders require a previous customer relationship.

o The second most common restriction by commercial lenders was their unwillingness to lend to out-of-state students attending schools in their state.

Twenty-four agencies reported having between 25 percent and 89 percent of their commercial lenders imposing this restriction.

Thirteen agencies reported virtually no out-of-state student restrictions, while 8 agencies reported that a small minority, between 5 percent and 24 percent, of their commercial lenders imposed this restriction. Five agencies reported that virtually all of their commercial lenders imposed this restriction.

o The third most commonly reported restriction by commercial lenders was imposed on students planning to enroll in less-than-two-year programs.

While 30 agencies reported that almost no lenders imposed this restriction, 13 reported that between 5 percent and 24 percent of commercial lenders restricted borrowing, 10 reported that 25 percent to 74 percent of commercial lenders restricted borrowing and 2 agencies reported that between 75 percent and 100 percent of their commercial lenders imposed this restriction. One agency reported that lenders will not lend to borrowers attending trade and technical schools that offer a specific type of training.

Direct Lenders (see Table 2)

Thirteen agencies reported using direct lenders. These agencies nored that the most common resriction imposed on borrowers was the unwillingness of direcr lenders to lend to out-of-state students attending schools in their state.

Five agencies reported that virtually all of their direct lenders impose this restriction, one agency reported that between 75 percent and 89 percent of their direct lenders impose this restriction, one agency reporred thar between 25 percent and 49 percent of their direcr lenders, and 6 agencies reported that virrually none of their direct lenders imposed rhis restriction.

Secondary Markets

Of the 24 agencies that reported operating a secondary marker, 7 reporred imposing certain restrictions. Of rhese, 2 require a minimum balance of $1,000 on loans they will purchase, 2 will not purchase loans made to students from out-of-srate institutions, one will not purchase loans from borrowers from institutions with certain default rates, and one will nor purchase loans made to our-of-state borrowers. One agency requires a $3,500 minimum average balance on loan portfolios, and will not purchase loans made to borrowers who have moved out of the market area, failed to respond to written inquiry, have deferments, and are graduate students.

Guaranty Agencies

Of the 53 agencies that responded ro the questionnaire, 17 reported that they impose restrictions on GSLs which go beyond federal regulations. Seven agencies will not loan ro borrowers from correspondence schools, three will nor loan to part-time students, two will loan only to state residents though one of these stares has an agreement with an out-of-state lender ro provide loans to out-of-state students, one will not loan ro borrowers under 21 years of age, one will not loan to theological institutions, one will not loan to students with less than a "C" average, one requires the borrower to be from a certificate/degree awarding institution, and one requires a cosigner. One agency restricts less than full-time undergraduate and graduate students to one-half of the maximum loan amounr of either $2,500 or $5,000 per grade level, allows only srudenrs who are enrolled in specific five-year programs ro receive a "fifth year" loan, and requires that after initial borrowing a student must progress to a higher academic grade level before receiving an additional loan.

Lenders of Last Resort

In response ro the question, "Do potential GSLP borrowers in your state have sufficient access to 'Lenders of Last Resort' so that the restrictions imposed by lender and/or secondary markets represent no major problem?", 29 agencies answered "Yes, definetely," 20 agencies answered "Yes, basically no significant problems in access in our state," 2 agencies answered "No, access to loans is restricted to some students," and one agency answered "No, access to loans is restricted to many types of students."

Table 1

COMMERCIAL LENDERS' RESTRICTIONS

		Percentages of restrictions					
		0-4%	5%-24%	25%-49%	50%-74%	75%-89%	90%-100%
A	Require a previous customer relationship before making a loan.	5	6	16	13	8	1
B	Require a cosigner before making a loan.	21	14	6	6	0	3
C	Require a minimum deposit on account before making a loan.	27	8	7	2	2	1
D	Limit aggregate loan amounts to undergraduates.	37	9	2	0	0	1
E	Limit aggregate loan amounts to graduate students.	39	7	2	0	0	11
F	Lend only to graduate/professional school students.	42	5	1	0	0	0
G	Restrict loans to borrowers in the second or a later year of their academic programs.	34	11	3	0	1	0
H	Restrict borrowing to "larger balance" ($2,000 and up) annual loans or won't make "small balance" loans.	26	14	1	3	0	0
I	Will not make loans to students planning to enroll in less-than-four-year programs.	35	8	5	1	0	0
J	Will not make loans to students planning to enroll in less-than-two-year programs.	30	14	5	5	1	1
K	Will not make loans to students who plan to enroll in schools in another state.	37	11	0	0	0	0
L	Will not make loans to students attending proprietary business, trade and technical schools.	26	14	7	0	2	0
M	Will not lend to out-of-state students attending schools in your state.	13	8	11	7	6	5
N	Will act as "lender of last resort" for students.	22	15	4	6	0	1

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TABLE 2

DIRECT LENDERS' RESTRICTIONS

	Percentages of Restrictions					
	0-4%	5%-24%	25%-49%	50%-74%	75%-89%	90%-100%
A Require a previous customer relationship before making a loan.	11	0	0	0	0	0
B Require a cosigner before making a loan.	9	1	0	0	0	1
C Require a minimum deposit on account before making a loan.	11	0	0	0	0	0
D Limit aggregate loan amounts to undergraduates.	10	0	0	0	0	1
E Limit aggregate loan amounts to graduate students.	10	0	0	0	0	1
F Lend only to graduate/professional school students.	11	0	0	0	0	0
G Restrict loans to borrowers in the second or a later year of their academic programs.	11	0	0	0	0	0
H Restrict borrowing to "larger balance" ($2,000 and up) annual loans or won't make "small balance" loans.	11	0	0	0	0	0
I Will <u>not</u> make loans to students planning to enroll in less-than-four-year programs.	11	0	0	0	0	0
J Will <u>not</u> make loans to students planning to enroll in less-than-two-year programs.	11	0	0	0	0	0
K Will <u>not</u> make loans to students who plan to enroll in schools in another state.	7	0	0	0	0	1
L Will <u>not</u> make loans to students attending proprietary business, trade and technical schools.	10	0	1	0	0	2
M Will <u>not</u> lend to out-of-state students attending schools in your state.	4	0	1	0	1	3
N Will act as "lender of last resort" for students.	5	0	1	0	0	6

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Senator RANDOLPH. Mr. Hawk, it has been alleged that HEAF is making or will ultimately make huge profits from its varied activities in several States, let us say, including West Virginia. Now, what is your current percentage of GSL's—is it 10 percent, is it 15, is it 20, is it 25—compared with the total loan volume under the guaranteed loan program? And take your time in answering.

Mr. HAWK. Senator, during the first three quarters of this fiscal year, the Higher Education Assistance Foundation guaranteed 8.6 percent of all loans guaranteed in the Nation. That includes the guarantees issued in the six States or five States plus the District of Columbia.

Senator RANDOLPH. Would you name the States again?

Mr. HAWK. Yes; it is Kansas, Minnesota, Nebraska, West Virginia, Wyoming, and the District of Columbia. That 8.6 percent also includes loans outside of those States.

Senator STAFFORD. And was that 8.6 percent of the total loans guaranteed; did I understand you correctly on that?

Mr. HAWK. Yes, sir, during the first three quarters of this fiscal year.

Senator STAFFORD. Thank you.

Mr. HAWK. I have forgotten how you phrased the question, Senator, but with respect to profit on the program, the Higher Education Assistance Foundation is the only guarantee agency to have returned to the Federal Government all of the reserve advances which the Federal Government has made available to it, in the amount of some $11 million. At the same time that the Higher Education Assistance Foundation did that, it reduced the guarantee fee which is charged to students. The Higher Education Assistance Foundation has been both willing and able to accommodate a loan portfolio which includes loans which very often are regarded as not the most desirable loans, loans which are regarded as risky and with a greater propensity than the average to default, loans with relatively small balances, which are more costly to service than others. The Higher Education Assistance Foundation has never had any support from any State. The Higher Education Assistance Foundation has never had any reserve advances or other kinds of assistance from institutions of higher education or from business organizations.

One of the things which the Higher Education Assistance Foundation, quite frankly, Senator, has sought to do is to demonstrate that this kind of program could be operated efficiently and effectively to cause the needs of students to be met with minimal subsidies from the Federal Government and without support from other areas. The foundation, being a nonprofit organization, does, of course, accumulate some funds; it does not pay any dividends to stockholders, and the foundation does attempt within the constraints which I have just mentioned—delivering the best service with the lowest possible cost—attempt to demonstrate financial viability and financial strength, so that lending institutions like Hawkeye and Citibank and the others will have some confidence in the guarantee of the foundation. I think the foundation has done this fairly well. The foundation has accumulated a fund balance of some $25 million. It has accumulated reserves of some $35 million. It has accumulated total assets of $60 million, which gives financial institutions confidence in the ability of the foundation to deliver with respect to its commitment to pay default claims. I think, it is important for you to understand that the foundation has done these things at the same time that it turned back to the Federal Government some $11 million on a voluntary basis, reduced the guarantee fee, and generally sought to provide the service at the lowest possible cost to the student.

Senator RANDOLPH. I appreciate your statement. I said almost what you have said in my opening statement. I did discuss for the record in the State of West Virginia.

I repeat, Mr. Chairman, that the Higher Education Assistance Foundation has approximately 15,000 loans in effect in West Virginia colleges and universities—is that right?

Mr. HAWK. Yes, Senator.

Senator RANDOLPH. That is at the beginning of this current school year?

Mr. HAWK. Yes, Senator.

Senator RANDOLPH. How many colleges are involved—all of them?

Mr. HAWK. All of them. I cannot recall the total number of institutions in the State, but it is all of them.

Senator RANDOLPH. Yes. Are the three universities involved—West Virginia University, Marshall University, and the University of Charleston?

Mr. HAWK. Yes, indeed.

Senator RANDOLPH. And the independent private institutions and colleges in the State; is that correct?

Mr. HAWK. Every public and private institution in the State, either collegiate institution or vocational-type institution which is eligible under the Federal law is involved in the participation of that program and is served by the program.

Senator RANDOLPH. Mr. Chairman, I am going to place certain information in the record at the appropriate time—I want to bring the record up-to-date. I have made a call to the proper officials at Salem College. Salem College is the institution from which I was graduated, and an institution on which I served for more than 50 years as a trustee, and continue now as a trustee emeritus, to serve that college in central West Virginia.

I will be forgiven, but perhaps not forgiven, for a personal comment. I attended a recent Salem College board meeting, and while walking through the main street of Salem, the town in which I was born, why, a gentleman older than I am called to me and said he would like to chat a minute. I said, "Yes, indeed, I will come over and see you." He said, "No, I can still walk across the street."

So he came over and he said, "I know you were a trustee of Salem College for over 50 years. And I now see you are listed as trustee emeritus. What is the meaning of the word 'emeritus'?"

I said, "It simply means I am still hanging around."

So, whether you talk about "emeritus" or "emeritus," why, that is exactly what I am doing in connection with the subject matter of aiding West Virginia's students in receiving loans through which to pursue their education. I am still hanging around.

Mr. Chairman, I will place in the record a little later, hopefully, within a few minutes, after a phone call is returned from Salem

College. Our student body there, about 92 percent of them, would not be in college except for loans, Mr. Hawk. Is that case repeated throughout the country in any institution?

Mr. HAWK. Mr. Chairman and Senator Randolph, there are a number of institutions in the country which fit the general category of a Salem-type institution, which are highly dependent on the availability of student financial aid in order for the students to have the benefit of the resources of that institution. Salem College is a good example of an institution which has been dependent upon those types of resources, as well as dependent upon the leadership of people like you, Senator, to provide continuing support for the institution.

The fact of the matter is, there are a great many institutions in this country, similar to Salem College, which are almost fully dependent upon the availability of student financial aid in order to meet the needs of their students.

Senator RANDOLPH. The colleges would have closed their doors, isn't that correct, by the hundreds, even, perhaps, thousands, throughout the Nation, without the guaranteed student loan program?

Mr. HAWK. Mr. Chairman and Senator Randolph, the guaranteed student loan program is the most comprehensive of all the student loan programs available in the Nation today. As a result of this comprehensiveness, and as a result of its unique capacity to meet needs of students at all income levels, it has been a program which is critical, in my judgment, to the survival and effectiveness of many institutions in the Nation. I think Salem College is just an example of the pressing need for institutions to have resources on which they can draw in order to provide financial access for the students attending those institutions.

Senator RANDOLPH. I have another question that I had thought to ask you, but I will simply submit it for the record to save time, Mr. Chairman, so that the other witnesses can be heard.

Senator STAFFORD. Without objection, it is so ordered.

Senator RANDOLPH. I thank you so much.

[The following was received for the record:]

[Salem College information: The Senator's recollection that 92 percent of Salem's student body received loan assistance was correct.]

Questions intended to be submitted by Senator Randolph for written responses were subsequently asked by other members, and answered on the record by the witnesses.

Senator STAFFORD. The Chair now is prepared to recognize Senator Grassley, and I understand he has to leave shortly. The Chair also wants to welcome my long-time partner in this subcommittee, Senator Pell, and he also has to leave shortly, so I hope that the two Senators will be brief.

Senator GRASSLEY. Yes, thank you, Mr. Chairman.

Mr. Biklen, the chairman asked you a question similar to this, but I wanted to be a little more specific. Do you feel that you would be able to maintain current loan services if your bank were forced to deal directly with a number of State guarantee agencies, rather than one private guarantor?

Mr. BIKLEN. Well, right now, we deal with, I would say, probably 10 guarantors. If we were to deal with 50 guarantors, that would be difficult, because they have all got differing requirements. But as I said, we solicited 25 to 30 of the guarantors where we thought there was need—this goes back 3 or 4 years ago—and some of them said yes, and since, we are operating under those programs.

But if we had to operate under 50 programs to satisfy all the need in the country, that would be a burden to us.

Senator GRASSLEY. It would be a burden. Would it change your policy? Would you be serving fewer students?

Mr. BIKLEN. If it was stated that we could not make a loan, probably, yes, because we just could not—unless the procedures were standardized such that it did not make any difference. But if they continued to have differences, yes. If they were standardized, possibly, we could do all of them.

Senator GRASSLEY. Thank you.

Mr. Haw!., in your testimony, you say that your organization guarantees only 8.6 percent of the total volume of loans guaranteed under the guaranteed student loan program. What percentage of those loans come from States where you are the designated State agency?

Mr. HAWK. Mr. Chairman and Senator Grassley, I should have anticipated that question, and I should have done a precise calculation to determine that, but it would be in the neighborhood of—my best guess is that it is in the neighborhood of 90 percent.

Senator GRASSLEY. OK. If you find the actual figure is different, you can change your testimony to us by way of writing.

Mr. HAWK. I will indeed, Senator.

Senator GRASSLEY. Thank you.

Mr. Bullard, again, I think the chairman touched a little on the questions I want to ask you, but I want to get just a little different point of view. Had your holding company been unable to seek a private guarantor for your student loans, would you have chosen to terminate your participation in the program?

Mr. BULLARD. That was very definitely in our consideration at that point, Senator.

Senator GRASSLEY. OK. It is my understanding that the loan criteria that students must meet under the Iowa College Aid Commission are not restrictive, relatively speaking. However, do you feel that there are student populations such as vocational students that are not being served by the State guarantee agencies?

Mr. BULLARD. I think to the extent that lenders are willing to work with those technical and vocational schools, the State guarantee agency, perhaps, does serve. However, I think our relationship with HEAF has been able to enhance accessibility for those types of students in our State.

Senator GRASSLEY. From a qeneral point of view, are you able to serve a broader clientele under your contract with the Higher Education Assistance Foundation than you were able to solely under the Iowa College Aid Commission?

Mr. BULLARD. Yes, very definitely. As a case in point, many of our banks are located on the periphery of Iowa. There are schools across borders. HEAF enables our banks located in—let us take an example—Council Bluffs, Iowa, to provide a loan service for Nebraska students attending Creighton University or the University of Nebraska-Omaha, which are right across the river. You cannot do that under the Iowa program.

Senator GRASSLEY. Thank you, Mr. Chairman. That is all I have.

Senator STAFFORD. Thank you very much, Senator Grassley.

Senator Pell?

Senator PELL. Thank you, Mr. Chairman. I just wanted to present my apologies for not being here the whole morning. We are having the freeze resolution in the Foreign Relations Committee at this time. And I would also thank Senator Randolph for having inserted in the record on my behalf the statement put out by the National Commission on Student Financial Assistance, and emphasize my own hope that this hearing will illuminate further the whole question about access to institutions of higher learning. My own view is that the direction that we should always seek to go is to provide the widest possible access, no matter what that means is and how we can do it.

I thank you very much for allowing me to jump in this way.

Senator STAFFORD. Well, thank you very much, Senator Pell.

At this point, I would like to again express my personal and the committee's thanks to all of you for being here, and for the constructive suggestions you have made to us as we address this problem.

Thank you very much, gentlemen.

The next panel, panel 2, will consist of Mr. William A. Paasch, who is president of Utah Educational Loan Services; Mr. Richard Innocenzi, director of the New Jersey Higher Education Assistance Authority; Mr. Carl Donovan, president, Washington Student Loan Guaranty Association; Mr. Jay Evans, Pennsylvania Higher Education Assistance Authority, and Mr. Ron Iverson, director, Vermont Student Assistance Corporation.

My apologies, gentlemen, to any of you whose names I mispronounced. It will be the Chair's intent to take you in the order in which you have been announced, and you heard me explain our stop-and-go system here, so I will not bother to do that again. But I will again apologize for the lack of time to do things properly in testimony, knowing all the work you have gone through to be here and prepare. We will place all of your statements in the record in full, as if read.

Having said that, Mr. Paasch, if I get your name correctly, you are No. 1.

STATEMENT OF WILLIAM A. PAASCH, PRESIDENT, UTAH EDUCATIONAL LOAN SERVICES, INC., SALT LAKE CITY, UTAH; RICHARD J. INNOCENZI, DIRECTOR, NEW JERSEY HIGHER EDUCATION ASSISTANCE AUTHORITY; CARL DONOVAN, PRESIDENT, WASHINGTON STUDENT LOAN GUARANTY ASSOCIATION; JAY EVANS, DEPUTY FOR LOANS AND FEDERAL AFFAIRS, PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AUTHORITY; AND RON IVERSON, DIRECTOR, VERMONT STUDENT ASSISTANCE CORP.

Mr. PAASCH. Thank you, Mr. Chairman.

I am William Paasch, president of Loan Servicing Corporation of Utah, a private nonprofit company responsible for managing both the guarantee agency and secondary market activities for the guaranteed student loan program in Utah.

I, like many of my colleagues, am concerned by recent activities leading to the formation of the law school assured access program, a joint effort by Higher Education Assistance Foundation, the Student Loan Marketing Association, and First American Bank of Washington, D.C. According to the information distributed by the Law School Admission Council to the law schools in Utah and nationwide, the purpose of the new program is to provide GSL and PLUS loans to law students because of the unevenness and uncertainty of the availability of guaranteed student loans and the even more unpredictable access to auxiliary loans to students.

In spite of these publicly announced purposes leading to the formation of the program, I believe that LSAAP is nothing more than an effort to remove lucrative, high-balance, low-risk law loans from the portfolio of the State-administered guaranteed student loan program. To my knowledge, no inquiry was made by HEAF, Sallie Mae, or First American Bank as to whether loan access was a problem for law school students in Utah. It is not. Neither HEAF, Sallie Mae, or First American Bank, to my knowledge, made any effort to contact the guarantee agency or otherwise announce its intention to offer the program within the State of Utah.

Our first awareness of the program came as a result of a question concerning application procedures from the financial aid office at one of the schools contacted to participate in LSAAP. That kind of introduction to the program was totally inadequate, and shows HEAF's and Sallie Mae's blatant disregard for common courtesy and the absence of any respect for the efforts of our organization to provide access to loans for Utah students.

I object to the formation of LSAAP and the unannounced introduction of the program to the State of Utah for the following reasons.

First, I do not believe competition among guarantors is a healthy or desirable situation. The purpose of financial aid program is to provide access to higher education, not profits to Sallie Mae, HEAF, or the First American Bank of Washington.

Second, multiple guarantors within a State or new nationwide program simply serve to confuse the students without providing any real benefit. Since the LSAAP program has been operating in Utah, we have been informed by financial aid offices of confusion among law school students. Several students who have already applied and received their student loans under the Utah program for this school year have appeared at the financial aid office, requesting additional loans through LSAAP. These students are under the false assumption that separate loans may be obtained under LSAAP to supplement the guaranteed student loan.

Worse, imagine the administrative boondoggle in the event a school inadvertently processed a Utah GSL and an LSAAP GSL to the same student for the same loan period. Since the student is eligible for only one, not both, of the loans, one of the lenders, either First American or the local Utah lender, is holding a potentially nonguaranteed loan, which is ineligible for Federal interest benefits or special allowance. Imagine if I have to tell a Utah lender that it does not have our guarantee on a loan made in good faith, because someone else already made the student a loan.

Third, the last thing students, schools, lenders and administrators need is another new program. The student already is faced with at least five separate Federal financial aid programs and a multiple of State and institutional scholarship, loan or grant programs.

Fourth, contrary to the material distributed by LSAAP, access to loans in the State of Utah is not uneven, uncertain or unpredictable. The only instance I am aware of concerning students who wanted to borrow, but were not able to, is in the case of approximately 12 law students, who because of high family incomes, did not qualify for a guaranteed student loan and desired to borrow as graduate students under the PLUS program.

Prior to the time LSAAP became operational, successful efforts were being made to provide access to these students through one of the largest lenders in the State of Utah. Even if that lender had determined not to make PLUS loans to graduate students, we have been comparing a State last-resort program to help those few—and I emphasize, very few—students.

The very purpose of decentralizing the student loan program was to provide a more localized and hence, accessible administration of the program. I do not believe that out-of-State agencies which encourage mail order loan can provide the same responsiveness and degree of understanding that we are able to help students obtain. State guarantee agencies have demonstrated great success in providing student borrowers better service and understanding of their loan obligation. My staff regularly participates in student and parent seminars at colleges, universities and high schools to help these families understand the availability and obligations of student loans. I do not believe that a guarantor headquartered in Kansas and a servicer and a lender located in Washington, D.C., can provide the same sort of responsive contact as we can with a local guarantee agency in establishing procedures, checks and balances, and controls in disseminating information. I encourage legislation to prohibit more than one guarantor from guaranteeing loans in a State without documentation of any perceived access problem. If, in the Governor's determination, an access problem does exist within the state, then programs like LSAAP should be permitted to operate.

In summary, I do not believe that the LSAAP program is designed primarily for access. I believe it is designed primarily for profit. If access to higher education were the motive of this program, why does the program set a $1,000 minimum and limit the eligibility for the program to full-time students? The answer is obvious: Loans in these categories are less profitable.

I agree with the comments made by the honorable Senator Stafford during the August 2 floor debate on the student loan consolidation bill when he said:

The recent proliferation of these arrangements without close scrutiny by Congress or by the Secretary of Education as to whether such arrangements actually improve student access to loan capital is troublesome and does merit our prompt attention. I encourage such prompt attention to restrict programs which do not necessarily improve access and benefit other companies.

Thank you.

Senator STAFFORD. Thank you very much, Mr. Paasch.

Mr. Innocenzi, you are next.

Mr. INNOCENZI. My name is Richard J. Innocenzi, and I am the director of student loans, New Jersey Department of Higher Education.

I am pleased, and consider it a privilege, to appear before this distinguished committee to comment on multistate guarantors. In order to understand the setting from which our experience has been drawn, let me help you to visualize the guaranteed student loan program for which I have administrative responsibility.

New Jersey is one of the largest volume States in the guaranteed student loan program, and one of the oldest programs, originating 5 years before enactment of the Higher Education Act of 1965. During the past 23 years, more than 1 million loans have been guaranteed to New Jersey students amounting to $2 billion.

Our success is attributed to many factors, but perhaps the most important one is due in large part to the cooperative efforts of more than 300 lending institutions within our State which have aggressively promoted this program, resulting in accessibility for all who quality.

Accessibility is not now and has not been a problem in New Jersey since the midseventies. A lender of last resort program was established in 1975 to address accessibility, with the result that only $1.4 million has been made in direct loans from 1975 to the present. During the past 4 years, only 83 loans amounting to $178,000 were made through the lender of last resort program. This averages to less than 21 loans per years. This is further testimony to the dedicated spirit of New Jersey lenders in serving the financing needs of students in pursuit of a postsecondary education.

In recent years, the GSLP has become an attractive portfolio for commercial lenders, but I am convinced that the motive of profitability alone is not the sole reason for the success of this program. Rather, I suspect lenders are pleased to deal with one guarantor whose continuous objectives have been focused on keeping the program as free from administrative obstacles as possible, and at the same time maintain one of the lowest cost loan programs in the Nation to student borrowers. The program is easily understood by students and parents alike.

In recent months, our program has been threatened by a guarantor located outside New Jersey which simultaneously perceives an accessibility problem, that does not exist, and an entrepreneurial opportunity, which does exist, to generate a handsome profit at the cost of student borrowers. I welcome healthy competition, for it has always been the cornerstone on which free enterprise is built. Not only does competition serve as motivation for a better product, but it ultimately leads to economic savings for the consumer who makes the final choice. The intrusion of a guarantor from another State did neither of the above. In fact, had steps not been taken to counter this marketing scheme, confusion among student borrowers in New Jersey would have been rampant. The variety of student loans is already confusing to the lay public, that is, NDSL, GSL, ALAS, PLUS, HEAL, FISL, but after many years, students and their families have come to associate GSL and PLUS loans as

State programs while all others are identified as federally or school-administered programs.

The public will be confused when, or if, multiguarantors are offering the same type of loan, GSL, through different lenders on different application forms, at different processing fees, and with different procedures. To confuse matters more, a borrower may not exceed annual or cumulative maximums. However, neither the guarantors nor the Federal Government will have any way of knowing when this limit is reached or surpassed until after the fact. Even with the present one guarantor per State, this occasionally occurs with innocent borrowers who borrow from their State of residence and the State in which their school is located. Allowing multiple guarantors to function within one State will only exacerbate this condition.

I am not totally adverse to multiguarantors in one State. There have even been occasions when prospective lenders who have expressed an interest to participate in our State program have been advised to participate with a guarantor operating in several States. To be specific, credit unions of national corporations which wish to accommodate the student loan needs of sons and daughters of employees would have to become accustomed to as many programs as States in which their employees are located. The advantages of dealing with one guarantor should be obvious in that one application, one fee schedule, one procedure, is best in order to render consistent service to all employees' children seeking these loans. Over the last two decades, the New Jersey Authority has referred inquiring credit unions to United Student Aid Funds, and has been satisfied with this arrangement and the service its students receive. Although this pattern represents a minuscule amount of students—averaging 100 annually—compared with the 120,000 students serviced annually by the agency, it nevertheless denotes a limited need for multiple guarantors within one State.

Another valid reason for allowing multiguarantors to exist in one State is the loan accessibility issue. The welfare of the student must transcend the economic and/or political climate of any State. I think this can best be done through the adoption of ethical practices emanating from a national association instead of by mandate from the Congress.

The National Council of Higher Education Loan Programs has already accepted the task of formulating standards and conditions under which multiguarantors will be able to coexist in the same geographic location. Another area NCHELP is currently exploring is the issue of interstate banking and the expansion of present nonbanking institutions into the student loan program. The ramifications of these future movements will greatly impact the GSLP. Any attempt to legislate multiguarantors at this time appears to be premature and unnecessary.

In its honorable attempt to address the accessibility problem, which does exist in some States, the Congress will create a problem which does not exist in many States and will be one of confusion among constituents requiring this means of financing and the agencies charged with the administration of these programs. Not by design but by coincidence, I fear any attempt to legislate multiguarantors to remedy inaccessibility would result in a return of the federally insured student loan program, FISL, which allowed the Federal Government to serve as guarantor in the same States which had State guarantors. The scars of that dismal failure still linger years after the Congress in its wisdom brought about the demise of that unworkable centralized program in exchange for a strong, proven, decentralized State agency operation. Surely there are better ways of addressing the inaccessibility problem than permitting profit-driven guarantors to work the territory.

In closing, I ask this committee to defer the issue of multiguarantors until it can be determined whether or not this can be self-policed by a national group of guarantors—the NCHELP.

In keeping with the adage that "That which is governed least is governed best," I see no need for legislative action at this time.

Senator STAFFORD. Thank you very much.

[Additional response of Mr. Innocenzi follows:]

State of New Jersey

DEPARTMENT OF HIGHER EDUCATION
OFFICE OF STUDENT ASSISTANCE
4 QUAKERBRIDGE PLAZA
CN 540
TRENTON NEW JERSEY 08625

September 21, 1983

The Honorable Robert Stafford
U.S. Senate
Room SD 428
Washington, DC 20510

Attention: Mr. David Morse

Dear Senator Stafford:

Upon my return to the office this morning, following yesterday's hearings before the Senate Subcommittee on multi guarantors, I was informed by a reliable source that my testimony led staff members to believe that New Jersey endorsed multi guarantors within our state. I was relieved to learn during our telephone conversation that this was not the perception you or your colleagues derived from my comments. Quite to the contrary, New Jersey strongly supports the one guarantor per state concept but as my testimony states, I realize there may be justified circumstances whereby a dual guarantor in one state is warranted.

It was my recommendation to defer federal legislation in the hope that our national organization (National Council of Higher Education Loan Programs) would be able to self regulate its members by a code of standards and ethical practices, thereby negating the need for additional federal legislation. In view of conditions which might not permit this to occur in the near future, I would like to modify my recommendation and would appreciate it if this letter could be added to my testimony to have the record show that New Jersey favors legislation which would permit multi guarantors to coexist only in states where specific categories of student borrowers would benefit from such an arrangement (those categories are contained in my testimony). Toward that end, I support legislative language which would allow second or subsequent guarantors to operate in a state only after approval by the existing state guaranty agency, or its appointing authority, with such approval based on a mutually agreeable proposal and documentation of the need to be met.

I appreciated the opportunity to testify and hope my comments provided some insight for the Committee on this critical topic.

Sincerely,

Richard J. Innocenzi

Richard J. Innocenzi, Director
New Jersey Higher Education
Assistance Authority

Senator STAFFORD. Now, we will go to Mr. Carl Donovan, president, Washington Student Loan Guaranty Association.

Mr. DONOVAN. Thank you, Mr. Chairman.

I am president of a nonprofit organization in the State of Washington, designated by the State to serve students in the State. We were created in 1978 and guaranteed our first loan in 1979. We turned around what I felt was a very severe access program in Washington State—literally no freshmen or proprietary students could get loans. Thirty percent of our loans now are made to freshmen, and 12 percent to proprietaries. It is interesting to note that the proprietary figure is at least twice as high as what the enrollment figures would lead one to believe it would be.

I would like to share with the committee a few of my thoughts as a member on a recent interstate study of the issue before you. In an attempt to clarify the roles of guarantors, the National Council on Higher Education Loan Programs, NCHELP, formed a committee about a year ago to study the coordination of interstate activities. The discussion involved several concerns, among which were the degree of State involvement in interstate activity, the degree of responsiveness afforded lender school students, and the degree of security to lenders and others in supporting the guarantee of a guarantor and also providing the kind of services needed to adequately monitor the program.

We looked at several options. One was to restrict activities entirely to a single guarantor in a State. This offered maximum security to lenders in that it did protect the guarantor's market; it assured continued guarantee activity and solvency of the guarantor involved. It gave to the State the ability to decide who it would have as a guarantor, but it closed off the opportunity for a State to designate more than one guarantor, if it felt that more than one was needed thus restricting the State in exercising its responsibility in actually monitoring the program.

The second option we looked at was permitting any guarantor to serve in any State. This offered, of course, the maximum degree of competition, potentially supported high access, and provided an incentive for a high degree of responsiveness. However, it encouraged participants to lean on the guarantors to streamline the process of guaranteeing loans. The committee felt that this streamlining, although necessary to a degree, can be easily carried to extremes as Bill Paasch has mentioned.

This competition model would potentially erode a guarantor's volume, and jeopardize the outstanding commitments to lenders that the guarantor has on its current loan volume.

It woulds usurp the role of oversight on the part of the State by permitting any guarantor to come into the State, regardless of what the State felt it needed.

The third option that the committee looked at was vesting responsibility for loan delivery with the individual States. It would give the States primary responsibility for deciding which guarantor should serve its students, including sanctioning more than one guarantor. This option was endorsed by the committee. It felt a sole guarantor should not have sole jurisdictional rights in Federal law, neither did it feel that open competition, unconstrained, was desirable. The view was expressed in a written set of principles that was endorsed by the NCHELP membership last spring—I believe that has been shared with your staff, but I would be happy to do so if it has not.

I strongly urge your serious consideration of the principles contained in, and actually passed by, this committee. In my opinion, the principles reiterate the intent of Congress in its 1976 amendments to decentralize the program into the States. In my view, the role of the State has been overlooked in the debates on this issue over the last summer. In my opinion, the State has responsibility for providing education and coordinating Federal with non-Federal forms of student assistance. It is a higher authority than the guarantor and has a perspective that tends to go beyond any single guarantor. It has a strong interest in access, and it is acutely aware of lender concerns for a solvent, stable guarantee agency. I might add that whether or not the State exercises the authority to appoint another guarantor to supplement the activities of the first guarantor, the fact that it has that opportunity to designate another guarantor in itself will provide the advantages of competition.

In response to those—and there are many—who complain that the States are not on top of their GSL programs and do not know what is going on in the GSL programs. I can assure you that this is not the case in the State of Washington. In my experience, lenders, schools, and students are in continuous contact with State officials. If a problem exists, they are very quick in apprising the State of the problem. They play an active role in assisting the State in overseeing the guarantee agency activity.

This closes my presentation, Mr. Chairman. I would be happy to answer any questions.

Senator STAFFORD. Thank you very much.

Next, we will hear from Mr. Evans.

Mr. EVANS. Mr. Chairman, I thank you and the committee for the opportunity to appear before you today on the matter of access to student loans.

I am Jay Evans, deputy for loans and Federal affairs with the Pennsylvania Higher Education Assistance Agency.

In 1966, PHEAA signed an agreement with the U.S. Department of Education to act as the State agency in Pennsylvania responsible for the administration of the guaranteed student loan program. PHEAA's loan program provides equal access for all eligible students in all categories, as provided by the Higher Education Act. We have our own assured-access program in Pennsylvania. We have last-resort or second-resort lenders.

PHEAA does, however, join those who voice concern that all eligible borrowers must be given reasonable access to the GSL and PLUS/ALAS programs. It is recognized that some designated guarantors in other States do not provide full-access loan programs. In those cases, establishment of multiple guarantors in such States may be appropriate. However, the ways in which additional guarantors may be approved needs thoughtful consideration.

Perhaps the first point to consider is the law, expressed in 422(a)(1) of the Higher Education Act. It is our reading of the law that its intent was for the Secretary to provide each State with the opportunity to decide if it is willing and able to establish a program to perform the guarantee function and provide students in each eligible institution access to a student loan insurance program which meets the requirements of the act. If the Secretary determines that there is no likelihood that the State will have such a student loan insurance program, then the Secretary may make advances to nonprofit private institutions to perform this function in the State. In our opinion, this means that a State should be given the first opportunity to decide whether it is willing and/or able to provide a loan insurance program to students attending the institutions within its boundaries. If the Governor says a State cannot or will not provide these services, then it would be appropriate for the Secretary to consider assigning the insurance function to one or more other or additional institutions to provide only those services not provided by the State.

There are additional factors to consider in establishing multiple guarantors in a State. A very important area is the potential increase in defaults. PHEAA has put forth much effort to effect State legislation that enhances our collection efforts on default. PHEAA may garnish wages in order to collect defaulted loans. PHEAA can initiate payroll deductions against defaulters in Pennsylvania. Over the last 18 months, we spent $1 million for prothonotary and sheriff fees to pursue defaulters through complaints and judgments. In July 1983, a streamlined Statement of Claims, process was implemented as a result of State legislation and will undoubtedly ease PHEAA's expense in this area. It does not seem likely that the Pennsylvania Legislature would have been so responsive to the legislative and administrative needs of a guarantor who was not a Pennsylvania governmental agency.

Another guarantor would not have in Pennsylvania the same collection advantages that PHEAA gained through its direct connections with the general assembly.

I have here an August 9 reprint of the front page of a newspaper in Harrisburg, where this story was carried, not only in Harrisburg newspapers, but all over the State. Headlines, front page: "PHEAA Action Believed to be the Nation's First; 2,323 Student Loan Defaulters will be Hit with Garnishment." The article specifically States that the 1982 General Assembly in Pennsylvania enacted this legislaion on PHEAA's behalf.

I think this is where we are coming from with regard to State administration of the guarantee function and the cooperation a State guarantor can get with the general assembly.

Senator RANDOLPH. Could I ask a question?

Senator STAFFORD. Certainly, Senator.

Senator RANDOLPH. Just on the subject matter, and the very dramatic way in which you have brought it to our attention, what is your feeling about employees in the Commonwealth of Pennsylvania working in State government positions who have not repaid their loans?

Mr. EVANS. Senator, we had in the past legislation that permitted the firing of State employees who defaulted, and we have legislation on the books now which does permit us to in effect garnishee wages of these people. We have an arrangement with the State to deduct 10 percent from these employees wages toward repayment of the default. There was from 1978 until 1982 a law in the State which said that one cannot maintain State employment if in default on a student loan. However. we have pushed strongly and succeeded in replacing that for the 10-percent legislation with payroll deduction in this area.

Senator RANDOLPH. I commend you.

Thank you, Mr. Chairman.

Mr. EVANS. Let me close by stating PHEAA's position—and I would like to make this very clear. PHEAA's position is not to prohibit a guarantor of loans in a designated State from guaranteeing loans in other States if the other States have no designated guarantors or if the designated State guarantor does not offer a full access program. However, the designated State guarantor should be forewarned of the intent of the Department of Education to permit multiple guarantors in a State, and should be provided with the opportunity to expand its program to a full-access program before multiple guarantors are approved, or to gain a full understanding of the other guarantors' program to aid in dispelling confusion among program participants.

PHEAA is seeking support for legislation that will accomplish that goal.

Thank you.

Senator STAFFORD. Thank you very much, Mr. Evans.

Now, with some parochial pride, which my friend, Senator Randolph understands, we will listen to Mr. Ron Iverson of Vermont.

Mr. IVERSON. Thank you, Senator Stafford. It is certainly a pleasure to be here, seeing you once again and testifying before this distinguished committee. I do not have a prepared text.

I would like to begin my testimony by quoting a particular Senator, whose quote I think you will recognize: It comes from the August 2, 1983, Congressional Record, and it is a one-sentence quote. "I do not believe that outside guarantors should make a unilaterally determination that services and access provided by a State agency have been inadequate, and then enter into business in that state without some determination by the Secretary of Education and the Governor that access has been, in fact, inadequate."

Senator, that is your quote, and I would like to direct my testimony to why I support that particular statement.

Vermont provides complete programs of financial aid through its State agency. We have full services statewide to Vermont residents and to anyone else wishing to study in Vermont. We have full access to guaranteed student loans, to PLUS loans, and ALAS loans. In fact, we offer our law schools better access than HEAF and LSAAP. We will guarantee a loan to a part-time law student, and we will guarantee a loan less than $1,000 to those students, which is not the case for the HEAF/LSAAP program.

In other areas, we offer debt management counseling. We have an extensive pre-claims staff that interfaces between our lender and our student to prevent defaults. We provide numerous brochures, folders, et cetera for student better understanding of the then debt and for storage of important papers, plus issuing one of the most comprehensive guides to vocational programs and schools in the country where our students may take not only loans but also our State grants.

We have WATS lines. We have had more than 1,000 calls in 1 day. We provide seminars for high school guidance counselors, social welfare counselors, vocational rehabilitation counselors, Vietnam veteran counselors, and particularly, at every high school, we provide a seminar in the evening for parents and students, where we go through the financial aid process, explaining not only what a guaranteed loan is, but what a Pell grant and other financial is, how they apply, and what their eligibility is apt to be.

One particular area that I think is important is our program integration. I will give you one example. When a student loan guarantee comes into our office, we automatically run that guarantee through our data system, and when we spot a student whose family income is low an example may be $12,000 with no Pell grant, no State grant, and a $2,500 loan request, an immediate contact is made with that family by one of our outreach counselors to start the process that will enable them to qualify for their rightful Pell grant, their State grant, and in all likelihood, reduce the amount of loan they were initially willing to take to finance their education.

You may ask, "Why do you do these things?" We do these things because we are responsible to the public. We are a public corporation, created by the legislation.

The second point I would turn to now is what effect will multiple guarantors have in Vermont? I am going to relate only Vermont, since I think my colleagues certainly have covered what is happening in their States.

First and probably foremost, I have to ask the question: Will there be public accountability? We are accountable to the State legislature, to the Governor and to the people of Vermont. Our meetings are open to the public. Our books are open and our minutes are open, by law, and we are audited by State auditors. The HEAF, LSAAP program in Vermont is only accountable to a private board and does not come under any public scrutiny in our State.

What better services would be provided to the public through multiple guarantors in Vermont? We would add more confusion; mail order loans are only one example. We have had experience with the FISL program in our State and found it totaly unsatifactory. You would see a decline in our ability to counsel students and more difficult repayment for students would occur as they went to multiple lenders. Certainly, we would see higher defaults. As I mentioned, students would have higher monthly aggregate payments due to multiple lenders.

Local lender contact would disappear. I think it is important for the Congress to realize that in the State of Vermont there is 100 percent lender participation in the guaranteed student loan program, with a trained student loan officer in every bank and branch. There are 125 banks and credit union employees who, on a daily basis, assist us in the administration of the GSL program, and they do it at no expenses to the Federal payroll. When we no longer issue the guarantee, these people will no longer be administratively supporting the program. This was very clear when they asked us in 1971 to either reinstate our guarantee process, or they would discontinue participation in the direct Federal insured loan program.

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We report all our loan guarantees to a credit union to insure that students, when they graduate from college, do not overburden themselves with additional debt. I am not sure that will happen with another guarantor.

I would have to raise this question: If we perform a lender review on one of our banks and find that they are not performing with due diligence in the collection area, would they be able to go to another guarantee agency and say, "I wish to guarantee my GLS loans with you, because you will not question whether or not I have adequate due diligence and repayment efforts"?

I am sure HEAF and a Citibank may benefit from their economies of scale, but erosion of all our smaller size lender participation will occur, which will be a disservice to the people of our State.

I will close by saying that overall, we must ask the question: Does uncontrolled proliferation of multiple guarantors serve the public? I do not believe so, and I think when the committee investigates the issues, they will not believe so. We would prefer and support legislation in this area.

Thank you.

Senator STAFFORD. Thank you very much, gentlemen.

We are running out of time, but there are some questions that I would like to ask, and Senator Randolph may have some, also.

It has been suggested that the principal reason State loan guarantee agencies are concerned with the proliferation of extraterritorial guarantee arrangements is that many of the State agencies' best loans will be, to use a word, "creamed" out of the State. Do any of you see a problem with the "creaming" of loans, and if one of you could answer, and if others disagree, respond; if not, maybe one response would do.

Mr. DONOVAN. I will take a crack at that one.

The higher balance loans are less expensive for a guarantor to service. The "creaming," in my opinion, is the targeting to higher balance graduate loans, law school loans, and medical loans. Those loans are more cost efficient for us and enable us to put more effort and resources into our smaller loans made to freshman. So, from a practical, financial support level, I have problems with creaming.

I have another philosophical problem with creaming, too. If we guarantors compete for those kinds of loans, then we will start making it easier for those individuals to get loans without having to go down to their local bank; they will simply mail in the form and get the money. In my opinion, that is not a good introduction to the lending and borrowing process. Borrowing under the GSL program is quite an education in itself, and gives the student an experience that will be valuable in helping him/her adjust to economic pressure after college.

So, for those two reasons, I have objection to creaming.

Mr. IVERSON. Mr. Chairman, this point was a major reason why the Vermont banks are willing to provide an ALAS loan, defer interest, and accrue it. Earlier panelists said something to the effect "We know we are losing money on that particular loan"—but because of the higher loan that usually goes into that portfolio, Vermont lenders are willing to make the unprofitable loan due to their ability to also make the larger balance loan and retain it.

I think if we skimmed off those loans from some of our small banks, like Randolph National, that has 8 percent of its assets in student loans supporting the Vermont law school, that they could reevaluate their commitment to the GSLLP.

Senator STAFFORD. If there is no further comment on this particular question, let me ask you this one. Do your States act as lenders of last resort, and if not, why not, and if you do, why; and how could the capacity of States to act as lenders of last resort be improved?

Mr. Paasch?

Mr. PAASCH. Well, in Utah, we have good lender participation, so that at the present time, we do not need a lender of last resort program. We had proposed a lender of last resort where the State would become a lender of last resort, 6 months ago, and it was left with the idea that if there were any students being denied access, we would immediately put that program into play. But at this point, lender participation has been such that we do not need one.

Senator STAFFORD. Is there any further comment on that particular question?

[No response.]

Senator STAFFORD. If not, one final question. What restrictions do lenders in your States make on student loan customers beyond those in Federal law?

Mr. IVERSON. In Vermont, we make no restrictions, Senator. Any student who is enrolled or accepted to enroll in a school is eligible for a loan; any student who is studying in the State of Vermont from another state is able to borrow through our program.

Senator STAFFORD. Further comment, here? Is there agreement, generally?

[Panel nodding affirmatively.]

Senator STAFFORD. All right. Thank you, gentlemen, very much, indeed.

Senator Randolph, do you have questions for this panel?

Senator RANDOLPH. Mr. Chairman, in a sense, I wish to make this personal reference to you and to myself. I was active in matters of education during my service of 14 years in the House of Representatives. I know that you also were very active. I was elected to the U.S. Senate in November of 1958. I did not wait until January of 1959 to be sworn in, because I was to fill an unexpired term. I remember at that time, that just a month before, if my memory serves me correctly, legislation was signed into law in October of 1958, starting the national defense loan programs for students in this country.

I will want to be correct, but if memory serves me, I at that time was looking at what had been done just a few weeks before I came into office. I know you came a little later into the Senate. But during our time in the House, both of us, we were concerned with this problem, and since, we have tried, with other Members of the Senate and House, to be well-reasoned in what we do. We must be very careful, of course, to not in any way break down the programs under the acts that are upon the books. But we also have, I think, a very real reason for a commitment to making it possible for as many students who are in need of funds to be able to borrow those moneys. I think any of the panelists of today—we are not on different sides, as I look at it, although there are approaches that are different—but I think you would agree, is that not a primary concern of all of you, to provide those practical and reasonable programs where those who need loans are able to receive them? I will not give the name, but I have followed the career of a student, a young woman. who received aid. If she had not had that aid, she would never have been able to be a student in a college or to later graduate from that institution. Then, she went into her schooling in law, and had it not been for that loan provision, there in a specific way in the Commonwealth of Virginia—I will not go into the agency that helped her—she received additional loans. She is now in the practice of law. It would not be right, perhaps, for me to say, but she is recognized as an attorney of stature in the Commonwealth of Virginia. I knew this young woman, Mr. Chairman, and she never could have had this opportunity without the aid that has been given through the Federal Government and through the loan processes which are not questioned today, but which are a part of the dialogue that we must continue in this matter.

I am so conscious now that in the State of West Virginia—and I will ask staff to give me the exact number—we have 65 institutions, universities, colleges, proprietary schools, all types of schools, but 65 institutions, where students are now enrolled as we begin this year. And there are approximately 15,000 loans that are enabling students to be, in varying numbers, in attendance at those 65 institutions of learning. I think this is a tribute to a part of America that sometimes we overlook, when we do not give something to someone per se, but we encourage someone, and that individual young man or young woman are enabled to commit themselves to the processes of learning and then to better serve not only themselves, but the country of which they are citizens. The GSL program is not a grant but a loan—not a giveaway, but a helping hand until repayment can be made to the Government.

I just want this to be a part of the record today, a testimony to what, in this instance, at least, the Congress wisely proceeded to do, and the good results that are now following those actions.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator. I heartily agree. My recollection is that half of all the students who go to college in Vermont do so because of the array of college assistance programs of which the guaranteed student loan program is the key. In my State, like yours, this program is very important.

I want to thank this panel for joining us this morning and helping us in the difficult task we have assigned ourselves. We appreciate it very much indeed.

The final panel this morning will be Dr. Oswald Bronson, president, Bethune-Cookman College, Daytona Beach, Fla.; Mr. Jules Rosenblatt, president, Education Centers of the National Education Corp., Newport Beach, Calif., and Mr. Bruce I. Zimmer, executive director, Law School Admission Council, Newtown, Pa.

Once again, gentlemen, thank you for being here. You have twice heard me comment on the stop-and-go system. Your full statements will appear in the record as if read, and we will go in the order in which I announced you, which means, Dr. Bronson, you are first.

STATEMENT OF DR. OSWALD P. BRONSON, PRESIDENT, BETHUNE-COOKMAN COLLEGE, DAYTONA BEACH, FLA.; JULES ROSENBLATT, PRESIDENT, EDUCATION CENTERS OF THE NATIONAL EDUCATION CORP., NEWPORT BEACH, CALIF.; AND BRUCE I. ZIMMER, EXECUTIVE DIRECTOR, LAW SCHOOL ADMISSION COUNCIL, NEWTOWN, PA.

Dr. BRONSON. Thank you. My name is Oswald P. Bronson, president of Bethune-Cookman College in Daytona Beach, Fla., and Bethune-Cookman is a member of the United Negro College Fund, which I am here today representing.

UNCF is a nonprofit fund-raising organization providing services to its 42 member institutions, all of which are private, fully accredited, historically black colleges and universities. Approximately 45 students from virtually all 50 States attend UNCF institutions.

The Citibank higher education assistance foundation assured access program has been responsible for a notable increase in the participation of black students at UNCF colleges in the guaranteed student loan program. In the academic year 1979-80, only 4 percent of UNCF students were receiving these loans. This proportion increased to 9 percent in 1980-81 and 21 percent in 1981-82. With the advent of the Citibank HEAF program in 1982-83, the trends in GSL participation have begun to change dramatically. In just the first year of the program, with all of the problems of introducing a new program, 5,627 applications were received from 41 of the 42 UNCF member colleges, which represent some $10 million in new loans.

How does the program work? Very simply, it converts a bank-based program to a campus-based program. Instead of going to a local bank, a student obtains an application and brochure from his or her college financial aid office. The applications are completed by the student and college and sent by the college to the United Negro College Fund for review. UNCF forwards completed applications to Citibank and returns incomplete applications to the colleges for correction. After Citibank completes its portion of the application, the guarantee agency, the Higher Education Assistance Foundation, reviews the application according to its procedures for guarantee. Rejected applications are returned to the student through UNCF. For approved applications, upon the return of the signed promissory note sent by Citibank to the student, Citibank disburses a check to the college financial aid office for delivery to the student.

Now, under this process, 98 percent of the applications for GSL's were ultimately approved. At Bethune-Cookman, prior to the Citibank program, only 25 to 30 percent of the students' applications were being approved.

UNCF's role ensures that applications are correctly completed by both student and school. After only the first year of the program, it is clear that a number of UNCF colleges are already relying on this program. At Wilbur Force in Ohio, 51 percent of the students had loans approved under Citibank program; at Barber Scotia in North Carolina, 53 percent—and the record goes on and on and on. My own institution, Bethune—Cookman College, had 19 percent of its total student body receive loans under this program last year, and we expect the percentage to increase substantially this year.

The Citibank-HEAF program has managed to solve many problems associated with loan participation that posed serious obstacles to black students prior to its existence. Very simply, many students could not gets loans from local banks. Students such as those attending UNCF colleges come from low-income backgrounds and were considered to be poor credit risks. Local banks were also unwilling to grant loans for students from out-of-State and placed many restrictions on loan applications. These applications created a most discouraging situation, especially for families who do not possess financial status and who come to the situation intimidated by the prospect of filling out forms and negotiating with bankers. Now, with the bank barriers to getting student loans, the effect of these obstacles was to discourage many students from enrolling in college at all.

Now, this loan program has meant a great deal to many UNCF colleges. Since 98 percent of students that apply through this program would eventually get this kind of loan assistance, students are still able to enroll in college even though their loan applications may be pending. Clarke College in Atlanta submits that only 100 of its students were participating in the GSL program before 1982-83. But then, after the advent of the Citibank involvement, 1,300 of its students are now receiving this kind of aid. The amount of loan moneys was thus increased from $100,000 to $500,000 as a result. At my college, our loan applications increased and were at least tripled.

Thank you, sir, for giving us this opportunity.

Senator STAFFORD. Thank you very much, Dr. Bronson.

Mr. Rosenblatt, we would be pleased to hear from you.

Mr. ROSENBLATT. Thank you, Mr. Chairman.

My name is Jules Rosenblatt. I am the president of National Education Centers of Newport Beach, Calif. As a member of the board of directors of the Association of Independent Colleges and Schools, AICS, I appreciate this opportunity, with the assistance of William Clohan, our general counsel, to present to the subcommittee AICS' concerns regarding vocational student access to the guaranteed student loan program.

Proprietary schools over the years have been eminently successful in training and retraining America's work force. The guaranteed student loan program is needed to allow these students to attend postsecondary institutions. Indeed, it is needed to assure that students have the right to choose the postsecondary institutions of their choice and the programs of their choice.

Over the years, the GSL program has been a growing and dynamic one. Congress has changed from time to time the incentives to lenders, guarantee agencies and secondary markets in order to make these systems more workable. The system is, however, subject to marketplace reactions not always contemplated by Congress.

Access to the GSL system is and must be the governing consideration. During the recent past, program accessibility for the guaranteed student loan program has been improving. However, there are still many problems that are faced by college freshmen and vocational students. For example, many guarantee agencies and banks are unwilling to make loans to first-year students. Without that opportunity, a student very rarely can go on to his second or sophomore year. Recently, the National Commission on Student Financial Assistance published an interim report that indicated that vocational students pay more out of their own pockets for their training than other postsecondary students. There is currently a followup study being done by the National Commission on the rate of turn-down for vocational students in the GSL program.

The New York Higher Education Services Corp., in July of this year, indicated that many New York banks are only making loans to 2-year degree students. Chase-Manhattan Bank, in recent testimony, indicated that they would also only make loans to 2-year students, their concerns being purely financial and economic.

What happens is that large loans are more profitable for the lenders to make. Handling of an individual loan by an institution is the same regardless of the size of the loan. Secondary markets generally want higher loan portfolios, and so they, too, tend to discourage portfolios that contained small loans, loans that normally would go to vocational students.

From time to time, individual lenders need to balance their portfolios between guaranteed student loans and other consumer loans such as automobile, home loans, and home improvement loans.

And finally, State agencies occasionally impose regulatory restrictions or conditions on loans that they will guarantee. Recently, the Congress forthrightly dealt with this problem in the Student Loan Consolidation and Technical Amendments Act of 1983. In that act, Congress provided that discrimination by lenders in granting GSL loans was not to be allowed.

State legislatures also impose prohibitions that make accessibility to loans very difficult for vocational students. These problems occur in States like Georgia, North Carolina, South Carolina, occasionally in Arizona, Texas, and Alabama. For the most part, the State guarantee agencies have done an excellent job in providing access to the GSL program to vocational students. But the problem that we have is the problem of accessibility, and we consider that the highest concern for the program.

The attitudes and policies in some State agencies impede accessibility, contrary to the intent of Congress. We suggest that the proposed amendment will add a bureaucratic barrier to the process of granting guaranteed student loans that will further impede access for vocational students.

We feel that there is an immediate solution to this problem. AICS suggests that Congress maintain the status quo. The reauthorization of the Higher Education Act is pending. Until that reauthorization, AICS suggests that the activities of the national nonprofit guarantee agencies and the national lenders be reviewed, but that they be continued. Let's see if they are creating problems. The followup study by the National Commission on Student Financial Assistance will be available for review before reauthorization. AICS feels that the Congress will find the national agencies, both the banks and the nonprofit guarantee agencies, are performing a very useful function in providing access. And the highest objective should be accessibility.

AICS recommends that as part of reauthorization, a guaranteed access program be developed so that all students would have access to the GSL program.

We feel that with this approach, accessibility to the GSL would be available to all students.

Thank you.

Senator STAFFORD. Thank you, Mr. Rosenblatt.

[The prepared statement of Mr. Rosenblatt follows:]

STATEMENT

BY

JULES ROSENBLATT

Mr. Chairman. Members of the Subcommittee on Education, Arts and Humanities. My name is Jules Rosenblatt, President of the National Education Centers of the National Education Corporation (NEC). As a member of the Board of Directors of the Association of Independent Colleges and Schools (AICS), I appreciate the opportunity to represent AICS regarding access by vocational students to the Guaranteed Student Loan (GSL) program. With me is William C. Clohan, Jr. General Counsel for AICS.

The Association of Independent Colleges and Schools is an association of 581 diverse business schools and colleges and another 210 branch campuses. Our institutions range from business or specialized schools offering training of up to one year in length, to junior and senior colleges offering recognized associate and baccalaureate degrees. There are an estimated 450,000 students enrolled in these institutions representing a broad range of income and racial backgrounds. Approximately 90% of the AICS-accredited institutions are taxpaying business corporations. The National Education Corporation owns 47 schools nationwide, enrolling approximately 20,000 students in resident programs.

Private vocational institutions or proprietary institutions have been particularly successful in training and retraining workers to provide skills for today's job market. This responsiveness to changes in technology in the marketplace is not only an objective; it is a matter of survival to the institution. The high job placement rates for our graduates, over 80%, evidences our institutions success. The Guaranteed Student Loan program is vitally important to all AICS institutions. Without adequate access to GSLs, it is doubtful that many of our students could afford to attend postsecondary institutions. Certainly, their right to choose the type of institution and program they want would be greatly diminished.

THE GUARANTEED STUDENT LOAN PROGRAM IS A GROWING AND DYNAMIC PROGRAM.

The GSL program has matured since its enactment in 1965, and the loan volume has increased tremendously since 1976 alone. The GSL system is complex and changing though, and is based on numerous incentives to lenders, guarantee agencies and secondary markets. The number of participants in the system makes the lending process precarious and subject to marketplace reactions which often are unexpected by Congress. Because loan access depends primarily on third-party private entities and not government agencies, Congress needs to regularly review the program to ensure that it is providing loan access to the intended beneficiary -- the student. We commend the Subcommittee for holding this hearing to review the access question.

The legislative history of the GSL program evidences a desire by Congress to promote stability and loan availability in the program. The 1972 amendments to the Higher Education Act (HEA) established the Student Loan Marketing Association (Sallie Mae) to provide a source of secondary market capital to be used to purchase loans from the primary lenders. The 1976 amendments sought to diminish the federal government's role under the FISL Program and increase the role of the state loan agencies. Incentives were provided to entice and encourage those states not then participating to become involved. The 1980 amendments saw the Congress reject a proposed national student loan bank and, instead, an effort was made to strengthen the existing program structure. Sallie Mae was subsequently removed from access to the Federal Financing Bank (FFB).

I relate this brief history of the program in order to show that it is a constantly changing program and should continue to be so long as those changes enhance loan access for all students. Given the many changes which have occurred during the past several years in the financial community, particularly regarding interstate banking, the Congress must remain open to new ways of delivering the product -- loans -- to the consumer -- students.

ACCESS TO GUARANTEED STUDENT LOANS, AND STUDENT AID IN GENERAL, IS LIMITED FOR VOCATIONAL STUDENTS.

The success of the student loan program is evidenced by the tremendous increase in loan volume provided students throughout the country. This increase has occurred during a time of high interest rates and in spite of increased costs to the students for obtaining the loan, such as the imposition of an origination fee in 1981. Despite this success, though, there exists throughout the country many locations where access to a GSL is difficult to obtain or totally non-existent, particularly for the vocational school student.

In testimony before the National Commission on Student Financial Assistance (NCSFA) in January, 1983, Department of Education Comptroller, Ralph Olmo, stated that "certain categories of students, particularly vocational and college freshman, are beginning to experience difficulties in obtaining loans until they complete their first year of school." He goes on to state that

> "if students cannot get loans until their sophomore year, many of them may never be able to make it through their freshman year. And while not everyone can benefit from a college education, most can benefit from some form of vocational or technical education. Industry needs skilled technicians. Traditionally, students attending vocational schools come from lower income families and need financial assistance to go to school. As most vocational programs

are one or two years in duration, these students will not have sufficient average indebtedness to make lenders or secondary market servicing costs economically viable."

The statement by Comptroller Olmo concisely and forcefully presents the problems experienced by potential proprietary student borrowers. In general, students who choose to attend proprietary institutions for their postsecondary education or training are likely to be in need of financial assistance, but may be the least likely to receive it.

A recent interim report issued by the National Commission on Student Financial Assistance (NCSFA) on September 7, noted that students preparing at a proprietary institution for a vocation are often heavily dependent on loans but face few financial alternatives because of limited availability to them of campus-based, state and institutional funds. "These students must 'dig deeper' into savings, work in part-time jobs or sacrifice financially to a much greater degree than those enrolled in other more traditional sectors of postsecondary education." The Commission's report was based on findings of a study it conducted to examine the characteristics of proprietary school students receiving financial aid, as well as aid packages received in patterns of distribution. A follow-up study has been begun by NCSFA to focus on potential vocational students whose loan applications have been rejected to determine the reasons for that rejection and the likely impact on the applicants' educational and career plans. This information will be available early next year and can be used during reauthorization of the Higher Education Act.

A study released by the New York Higher Education Services Corporation in July, 1983, identified a significant number of financial institutions in New York who would not make loans to vocational school students or restricted their loans to anyone not in a two-year degree program. Chase

Manhatten Bank, one of the largest lenders in the GSL program nationwide, refuses to make loans to students in courses of less than two years in length. When questioned about this policy before the House Subcommittee on Postsecondary Education in May, 1983, a senior representative of Chase Manhatten was very forthright in his statement that Chase policy was based on pure economics -- small loans to students attending vocational programs do not produce a sufficient financial return to justify the expense of administering those loans.

THERE ARE MANY AND DIVERSE REASONS WHY VOCATIONAL SCHOOL STUDENTS ARE UNABLE TO FIND GSLs IN CERTAIN AREAS OF THE COUNTRY.

The following are the primary reasons why there is not total access to GSLs:

- o Lenders can reap higher returns on larger student loans, since it almost costs as much to administer a small loan as it does to handle a large one.
- o Related to the first reason, secondary markets are generally more interested in purchasing loan portfolios which have high average loan indebtedness.
- o Individual lenders try to balance their loan portfolios between student loans, home loans, automobile loans and other consumer loans and their policies change dramatically from year to year.
- o State legislatures impose prohibitions which adversely affect lending to certain types of students.
- o State agencies impose regulatory restrictions or conditions on the types of loans they will guarantee or purchase, in the case of secondary markets.

The current law provides for an administrative allowance to be paid to a lender or subsequent secondary market purchaser based on the principal amount of the loan. No consideration is made in the law for the fact that it costs approximately the same amount for a lender or another entity which administers the loan to administer a $5,000 loan as it does for a $2,500 loan. Let me give you an example to explain my point. If a lender had $5,000 to loan and three borrowers came to that lender seeking loans, one person for $5,000 and the other two for $2,500 each, the lender would much prefer to make the one $5,000 loan than he would to make the two $2,500 loans. That decision has become a business and financial one for the lender. As a policy matter which Congress must consider, the law should be as neutral as possible in creating incentives or disincentives which may adversely impact the access a certain type of student has to the loan program.

In a similar manner, when a secondary market purchaser buys a portfolio of loans from the primary lender, it receives its administrative allowance based on the average size of the individual loans in that portfolio. Therefore, it is also more inclined to purchase portfolios which have large loans in the portfolio. These decisions are based upon pure financial considerations. Again, Congress must address the policy issue.

In 1979 in Arizona, a GSL access crisis developed when the two largest lenders in the state decided not to make any more loans to vocational school students because it made the average loan in their portfolio too small to make those loans attractive to the secondary market purchaser. Thankfully, Sallie Mae worked out a special agreement with the Arizona banks to ensure that those loans would be purchased and vocational school students would have continued access.

In Florida last year, a decision was made by a bank to terminate lending to vocational school students because its loan portfolio was unbalanced as compared to other types of consumer loans. This bank, at that time, made 65% of the loans in the state. At the last minute, a consortium of banks agreed to make loans and now there is not an access problem in Florida. However, the Florida problem points out the transitory nature of lending policies and the potential adverse impact they can have on students.

Although the Guaranteed Student Loan Program is technically a federal program, the law gives a great deal of latitude to the states to establish their own statutory and regulatory scheme for implementing the law. While this example of federalism has been successful to some extent, it has also left gaps in the availability of loans for certain types of students. For example, in the state of North Carolina access to the GSL program is less than total. Therefore, an AICS institution is now trying to become an eligible lender under the program to serve the needs of their students. However, the state guarantee agency has informed them that the state law prohibits schools acting as lenders. In reading the state statute there seems to be no prohibition per se against an institution becoming a lender. At the most, there is a limitation on lenders from which the state loan authority may acquire student obligations from the proceeds of revenue bonds. Of more importance, however, is the fact that the federal law (Section 428A of the Higher Education Act) explicitly provides that as a condition for the state guarantee agency to have 100% reinsurance, it must provide for the eligibility of eligible institutions as lenders under reasonable criteria unless there is a state constitutional prohibition. The state authority freely admits that their prohibition is statutory and not constitutional.

Recently, we were notified by a college in Alabama that a large savings and loan would no longer lend to students attending their college because "restrictions placed on us by our secondary market service make it almost impossible to sell these loans."

In Georgia, many vocational students do not have access to GSLs and no lender of last resort program is available. Nor is there a state secondary market and the Georgia agency has not completed an agreement with Sallie Mae for SLMA to serve as a secondary market in the state. The state loan agency also seeks to prevent out-of-state banks from coming into the state to make loans to eligible needy students.

In Texas, most lenders who are participants in the state agency program there will not make loans to students who are not in at least a two-year academic program.

You are quite familiar with the regulations implemented this year in the Commonwealth of Kentucky which effectively prevent loans from being made to students who attend institutions or who try to borrow from financial institutions which have "aggregate default rates" in excess of 15% or 10%. New student loan applicants are treated as a class and not as individuals under these regulations and the students are therefore denied access to the GSL program by the action of the state agency. We commend the Congress for dealing with this problem forthrightly in the Student Loan Consolidation and Technical Amendments Act of 1983. Although we are still quite concerned about the inequitable treatment of specific students in Kentucky, we appreciate the passage of the section in the law which prevents discrimination by lenders, if they sell that loan paper to a state agency which uses tax exempt bond capital, based on the length of the program, the year in school of that student, or the type of institution.

NATIONAL NONPROFIT GUARANTEE AGENCIES AND NATIONAL LENDERS SERVE AS AN ESSENTIAL LENDER OF LAST RESORT FOR VOCATIONAL SCHOOL STUDENTS.

We understand that members of this Subcommittee are considering an amendment to current law which would prevent national nonprofit guarantee agencies and lenders from serving as guarantors and lenders if the state loan guarantee agency objected to the guarantee of loans by such a nonprofit private institution or organization and the Secretary of Education upheld that objection. The Association of Independent Colleges and Schools feels very strongly that such an amendment would do much more harm to the program than it would to solve some of the perceived problems that now exist because of this interstate activity. Most of the state guarantee agencies do an excellent job to ensure that all students within their jurisdiction are able to obtain a GSL. However, attitudes and policies in some states undermine the intent of Congress to provide such access.

The process established by the proposed amendment would create an additional barrier to loan access. If, for example, a lender which previously participated in the program suddenly decided not to make GSLs and no loans were available from other lenders within the state, delay caused by the application and appeals process assumed by the proposed amendment would go well beyond the starting date of the academic term. Many students would probably have to drop out of college until the process was completed or another in-state lender was found. A lender of last resort program would eliminate the need for the amendment.

It is also very difficult for us to believe that any governor or head of a state loan agency would admit to the Secretary of Education and the public in general that, in the face of an application by an out-of-state guarantor and lender, lending institutions within that state are unable or unwilling to provide the necessary loan capital to ensure real access to access to all students within the state.

CONGRESS SHOULD MAINTAIN THE STATUS QUO IN THE PROGRAM AND ALLOW NATIONAL NONPROFIT ORGANIZATIONS TO GUARANTEE AND NATIONAL LENDERS TO LEND WHEREVER THERE IS A NEED FOR A LENDER OF LAST RESORT.

The Association of Independent Colleges and Schools recommends that Congress retain the status quo until reauthorization of the Higher Education Act (HEA). During this time, Congress can review the activities of the national nonprofit guarantors and lenders to determine if they are, in fact, creating an unacceptable problem throughout the country. It is our prediction that you will find that they are serving an extremely useful purpose as a lender of last resort and their continued ability to serve this function ought to be retained in the program. Also, the follow-up NCSFA study results will be available for your review.

The highest objective of Congress when it deals with this program should not be whether they are protecting the individual state guarantee agencies. The chief objective should be whether eligible students are able to obtain loans everywhere in the United States. With that objective in mind, Congress should consider, as a part of reauthorization, some form of lender of last resort program to ensure access to CSLs for all students. Alternatively, Congress should continue to allow national nonprofit guarantors and lenders to serve the same function. We believe that, under the later approach, eventually there will no longer be pockets of non-access in the United States.

Senator STAFFORD. Mr. Zimmer?

Mr. ZIMMER. Thank you very much, Senator Stafford.

As the national nonprofit administrative support corporations for legal education, LSAC and LSAS have taken an interest in the assurance that individuals who are accepted into law school will, in fact, have the resources to attend. We have taken a number of steps toward that end; LSAC and LSAS have held a number of conferences that have dealt with financial aid topics. We have met frequently with other law school organization concerned with these matters. As a result of those activities, our review of the rather extensive information gathered by the American Bar Association and a number of our own questionnaires, we uncovered a substantial gap in availability of student loan supply to law students.

Some of the previous testimony, has evidenced a lack of understanding of the extent of our role as a multistate, grassroots organization, and I would like, rather than take the time now, perhaps to provide additional information later in the hearing.

LSAC/LSAS had a substantial base of information. We had a number of indications of shortcomings in State loan supply. The foremost problem that was indicated to us was the slow development of auxiliary loans. A problem you have heard described here earlier. We were able, as a result of analysis of a variety of data bases, to come to the conclusion that perhaps $50 or $75 million of demand for ALAS or PLUS loans was not being met and that the principal reason for that shortcoming was the perception among law students and law school people that the in-school interest feature was untenable. We discovered that, as well, State by state and locality by locality, other shortcomings existed, principally in the area of service to out-of-State residents attending school in various States away from their own homes. In a system of education as fundamentally national in character as law—teaching both State and Federal legal systems—that was of fairly fundamental interest for us.

We estimated that another unmet need of about $20 million existed in that area. We approached a variety of organizations and formulated a program we thought would solve it. We were surprised to learn, after we announced the program, that a number of State guarantee agencies had indicated their dismay and disapproval. We have always assumed that this program was goinq to work in tandem with ongoing State programs—was going to fit in interstitially The amounts of money we were talking about supplying were relatively substantial, but in an environment in which law student lending demand is between $300 and $400 million a year, and law student expense need is over $1.2 billion, we believed there would be ample opportunity for any who wanted to service law students to have the opportunity to do that.

In truth, what we are doing in most States is to provide a small amount of current service and to make a backup network available if and when it becomes necessary. In some States, we do provide a major service that isn't otherwise available. For law students throughout the country, we provide a blanket of last resort security that would not otherwise be available. Let me give you the briefest progress report on how this program is going.

More than 90 percent of ABA-approved law schools have enrolled in the LSAAP program. Loan applications have been received from 122 schools in 40 States. By mid-September, we had about a 3,500 student volume and about $11 million in aid being sought. Most of these aid requests urose exactly where we thought they would. Seventy-three percent of the applications that are coming in are for ALAS programs. Perhaps 12 or 15 percent, in addition, is for out-of-State resident funding. The demand is very much where we thought it was going to be. It is highly differentiated by State. We have evidence both from the questionnaires that we undertook before sturting this program und from the operational results of this program that there are pockets where our program is needed and there are places, like Vermont, where it does not appear to be needed.

We have not targeted any special marketing efforts. We have made this program uniformly available across the country. There is no reason on the face of it, in summary, to restrict multistate availability of federally guaranteed student loans. If the vagaries of State conditions happen to create peculiar circumstances that create disadvantages for students in one State over another, we would like to be there to help address them with a failsafe mechanism.

Let me just stress, us the last person up today, that the programs we are discussing today are Federal programs, albeit generally administered by the States. It is consonant with a Federal approach in this area for a national organization to provide a national base of support for those seeking loans from the system in their education. At a time when both the Federal and State governments are trying to find ways to encourage other organizations in society to develop ways to reduce the burdens on these governments, it seems inappropriate to prevent such efforts in the student loan area. We believe that we and our colleagues have developed a strategy which renders the Federal loan program more effective and efficient for a small segment of the population that the program is designed to serve. We have done so at no additional cost to the Federal Government or to any local government.

We respectfully offer, in conclusion, that little benefit will result from accepting the suggestion that one type of organization, and only one type, be permitted to serve the public in this important area. When the substantial and growing need for financial assistance for law students can be demonstrated to have been overcome, be assured that we will have no incentive to continue our present efforts to meet those needs. In the meantime, we believe we are performing a useful public service, and we ask you to let us continue.

Thank you, sir.

[The prepared statements of Mr. Zimmer and Ms. Wolff follow:]

STATEMENT BY
BRUCE I. ZIMMER
VICE-PRESIDENT-EXECUTIVE DIRECTOR
LAW SCHOOL ADMISSION COUNCIL (LSAC)
LAW SCHOOL ADMISSION SERVICES (LSAS)

Mr. Chairman and Members of the Subcommittee:

I am very pleased to have the opportunity to address this distinguished Subcommittee on a topic of considerable interest to our member law schools. I understand that the purpose of this morning's activities is the examination of the effectiveness of the current federal regulation of guarantee agency functions within states and across state lines. I come before you as a representative of LSAC/LSAS. LSAC and LSAS are non-profit educational associations comprised of the 173 American Bar Association approved law schools in the United States (and their Canadian counterparts). The Law School Admission Council and Services provide a wide array of services and publications related to law school admissions. Our most administratively and operationally complex program is the Law School Data Assembly Service, the national system of gathering and distributing academic and biographical information for the law school admission process. By virtue of our substantial effort to render diverse academic records readily comparable, this system has been instrumental in encouraging the consideration and evaluation of applicant academic records in the admission process. Each year, information concerning 100,000 people from 3,000 colleges applying to over 250 law schools is collected, processed and communicated through this system. The Law School Admission Test is another valuable component of this national law school admission program. Our many other varied activities aimed at the support and improvement of the law school admission and administrative processes are described in materials available from our Washington, D.C., or Newtown, Pennsylvania offices.

We are without any stake in the well being of any particular approach to loan guarantee. I come before you, however, to say that the current student lending law and regulations have permitted us to undertake an arrangement with First American Bank, Higher Education Assistance Foundation and the Student Loan Marketing Association that is providing an incremental and very substantial service for law students. LSAC and LSAS are very satisfied with having had the opportunity to establish the service. We can find no sound purpose in a revision of current law that would either limit or curtail our members' law students from opportunities to meet the considerable financial obligations of acquiring their legal educations. Our first and only effort at loan Program co-ordination, the Law School Assured Access Program, or LSAAP, arose out of a careful evaluation of the perceived needs of law students and law schools about which I will offer more later.

I believe that a broad overview of how LSAC and LSAS got involved with student loan concerns will be instructive. We are chartered to provide admission and support services for law schools nationwide. Our interests in admissions leads us, very directly, to take an interest in the assurance that individuals who are accepted into law school will in fact have the resources to attend, to the greatest extent possible independent of individual means. In pursuit of this objective we established, in 1970, the Law School Financial Aid Service, which l. . our being a founding member of the Graduate and Professional School Financial Aid Council, where we have, for many years, represented legal education.

In recent years, there has been growing doubt as to the adequacy of financial support mechanisms for law students. At least since 1981, fluctuations in interest rates and crises in other aspects of federal fiscal policy have focussed considerable critical attention on the costs of federal student loan subsidies. Various expressions of social and political policy, in turn, focussed Administration and Congressional attention on the continued viability of GSL and PLUS or ALAS in the graduate and professional school context. Faced with this uncertain environment, LSAC and LSAS became critically, and I hope you might understand, naturally interested. Costs at law schools continued to grow rapidly in 1981 and 1982. More and more attention at national meetings of legal education organizations was focussed on financing legal education. In 1982, we joined with the Association of American Law Schools and the American Bar Association Section of Legal Education to form a Joint Task Force on Federal Student Aid Programs. We looked for ways to provide our members and consumers with useful assistance concerning law student assistance programs. Following discussions at many law school meetings and law school deans workshops, through evaluation of questionnaires and by study of available databases, we discovered that existing federal programs were not being as fully and effectively utilized as they might be. LSAC/LSAS believed that both the Administration and the Congress would profit from a deliberate effort to make existing programs work fully for legal education--even as their continued viability and survival potential was being debated. Clearly then, one of our goals was to enhance the survivability of existing programs by helping to demonstrate their utility and necessity. But our most important objective has always been the desire to assure that qualified individuals throughout the nation would be able to complete their legal education. Our analyses of data and review of anecdotal reports indicated that, in 1982, there existed need and demand for 50-150 million dollars per year more than was being supplied to law students by banks and guarantee agencies. I would like you to understand that in addition to its analyses of data gathered from every approved law school by the American Bar Association. LSAC/LSAS conducted a specific survey of law schools before implementing the Assured Access Program. That survey demonstrated that an unmet need of some 114 million dollars per year could be met by a program of the design seen in our LSAAP.

There are a variety of reasons for the widespread recognition in legal education that this shortfall exists. Two causes emerge as preeminent and can probably explain 80% of unmet demand. First and foremost is the slow development of Auxiliary Loan (PLUS/ALAS) supply. PLUS/ALAS Programs were brought to an operational state very slowly. Prominent guarantee agency officials indicated strong disapproval of the Program. Nonetheless, our information has indicated that law students have wanted and needed auxiliary loans and continue to do so. For them, loan demand was suppressed because of the requirement of in-school interest payments. Such payments were perceived as an unworkable aspect by law schools, law students and many others. LSAC/ LSAS concluded that if a reliable supply of Auxiliary loan could be made available by a lender willing to capitalize in-school interest, pent-up annual demand for at least 50-75 million dollars existed.

Secondly, we observed state-by-state and locality-by-locality differences in availability of GSL as well as ALAS (or PLUS) loans. Local program effectiveness ebbed and flowed as interest rates and market conditions fluctuated. In particular, we found very substantial pockets of difficulty for non-resident students, that is, those students not resident of the state in which they attended law school. In a system of education as nationally uniform and as generally national in character as legal education, any interferences with interstate access to legal studies appeared to us to be highly problematic. LSAC/LSAS estimated that unmet need for 20 to 40 million dollars of loans annually existed as the result of unfunded non-resident students.

We analyzed other problems posed by law school personnel and law students. These included burdensome administrative processes that deterred borrowing, difficult co-signer requirements, credit and loan limitations of various types and required pre-existing banking arrangements as loan prerequisites. We concluded that unmet need of perhaps another 5 to 10 million dollars per year existed as a result of these complications.

Law students were not being fully served. We wanted to help. We approached a number of organizations to discuss the feasability of a program designed to meet the needs. We elected to work out a program with the particular group that joined us in the LSAAP. We articulated a need and a proposed outcome -- our collaborators found ways to fulfill their corporate missions and meet those needs at the same time.

In June 1983, after more than a year of preparation and following months of negotiation to select proper program dimensions, LSAC and LSAS announced a program to provide GSL and ALAS loans for law students under one simple nationwide system. The program, the LSAAP, met the key shortcomings that have been described previously. In addition to meeting our primary purpose of supplementing law student finances, we hoped as well to provide support for our member law schools' programs of student recruitment by assuring nationwide availability of student loans. So, concurrently with loan administrative systems, we developed or approved for development, a variety of materials that would encourage participation in and assure access to the subject forms of financial aid.

To our surprise and concern we discovered within days of our announcement that a number of state guarantee agencies indicated that they viewed LSAAP as competitive with their programs and thus infringing upon their prerogatives and priorities. We were surprised because, although we developed LSAAP in order to expand and assure national GSL and ALAS access for law students, we have neither interest in nor reason to be in conflict with state guarantee organizations. Indeed, we took the efforts of the state programs as a given. We set loan volume expectations accordingly. In the 1983-1986 period that the LSAAP is expected to be implemented under current arrangements, more than a billion dollars of GSL/ALAS volume is likely to be generated at the nation's law schools. Total student expenses over that period will approach 4 billion dollars. Law student loan demand is very great and for the forseeable future there will be ample opportunity for any and all who wish to lend money to law students to do so.

What are we really doing? In truth, in many states, our main function seems to be to provide a small amount of current service and to make available a fail-safe, a back-up to the good efforts of the local lenders and guarantee agencies -- to provide a safety net against any future difficulties that be encountered by virtue of changing circumstances -- to stand ready to be helpful when needed. In some states, however, we provide services not locally available on terms not locally provided. As we noted earlier, those served by LSAC/LSAS apply to nationally approved law schools in a nationally uniform admission testing, information and support system. We know that it is important to assure those we serve in that system, who later enroll in our member schools, that access to GSL and ALAS is a certainty -- whether they enroll in schools located in states with ample loan supplies or limited supplies and whether or not conditions later change in any local context for a variety of forseeable reasons. For thousands of law students LSAAP is a needed last resort..not a program that aims to draw "business" for reasons of self interest.

A report on the progress of the LSAAP should help the Subcommittee appreciate that the program is operating as intended and is fulfilling a need. More than 90% of ABA approved law schools have enrolled as participants in the program. Loan applications have been received from 122 schools in 40 states. By mid-September 3,500 students had sought more than $11,000,000 of aid. With no marketing effort beyond the provision of materials to law schools, an enthusiastic response was generated. More than seventy-three percent of the total of loans requested were the rarely available ALAS loans with the interest capitalization feature. Review of incoming loan applications and of practices in states in which LSAAP demand is high suggests that probably 85 or 90% of our loan demand is concentrated in fact exactly where we predicted it would be: the underserved auxiliary loan candidate and the underserved out of state resident. As noted earlier, some individuals in a small number of state agencies have suggested that we sought to "skim" a lucrative law school market from them. The facts belie that perception of our objectives and our work. We have not targeted any special marketing efforts on the basis of state volume or market potential but made the LSAAP uniformly and nationally available. A state-by-state breakdown of LSAAP performance reflects many apparently well served schools in which we are generating little or no demand. It also reflects a number of states in which need is concentrated at this early stage in the development of our program. These are neither necessarily those states containing the highest overall loan volumes, the most law schools, or possessing any other particular characteristic other than disproportional evidence that an unmet need, often specifically identifiable, may be present in that state at this time. To date, ten states are now generating 70% of demand in this program. Some very large, high demand, apparently well served states are not on this list. We salute them for serving our members and consumers sufficiently well that we are not needed. Here, as elsewhere, we note our gratitude for their efforts.

There is no reason on the face of it to restrict multistate availability of federally guaranteed student loans. Safeguards already built-in to federal programs, including close monitoring by the Department of Education, are adequate. If the vagaries of state economics and politics and local banking practices happen to create disadvantages for students in some states vis-a-vis students in other states, there should be a collection of national fail-safe mechanisms available, especially since student costs continue to rise significantly.

Let me emphasize that the student loan programs we are discussing today are federal, albeit generally state administered. It is consonant with this federal approach for a <u>national</u> organization to provide a <u>national</u> base of support for those seeking loans to assist them in financing their legal educations. Indeed it seems especially appropriate for legal education, which is training attorneys to serve both the states, and federal legal systems, to have the Law School Assured Access Program available when and as it is needed. At a time when both the federal and state governments are trying to find ways to encourage other organizations in the society to develop ways to reduce the burdens on these governments, it seems incongruous that serious consideration be given to restricting or preventing such efforts in the student loan area. We believe that we have developed a strategy which renders a federal program more effective and efficient for a small segment of the population that the program is designed to serve. We have done so at no additional cost to the federal government. We hope that you might agree that in our way we are trying to meet the challenge of our times.

We respectfully offer that little benefit will result from accepting the suggestion that one type of organization, and only one type, be permitted to serve the public in this important area. The key objective for us all is assuring adequate loan supply under favorable terms to needy students. That objective overrides any value that might result from efforts to restrict availability of or access to financial support for law students in any of the United States. If state guarantee agencies can provide GSL and ALAS programs under terms and conditions more favorable than those of the LSAAP, they shall have our congratulations, our respect, our considerable interest, and our sincere thanks for providing this important service to our member schools and the students we serve. When the substantial and growing need for financial assistance for law students can be demonstrated to have been overcome, be assured that we will have no incentive to continue our present efforts to meet those needs.

In the meanwhile, we are performing a useful public service. Please let us continue.

TESTIMONY

BEFORE THE SENATE SUBCOMMITTEE

ON

EDUCATION, ARTS AND HUMANITIES

September 20, 1983

BY: Willis Ann Wolff
Executive Director
Iowa College Aid Commission
201 Jewett Building
Des Moines, IA 50309

Mr. Chairman and Members of the Committee:

As Director of the Iowa College Aid Commission, which is responsible for state-funded scholarships and grants as well as Iowa Guaranteed Student and PLUS Loans, I am deeply concerned about the trend toward nationwide guarantee programs exemplified in the activities of the Higher Education Assistance Foundation.

Our Commission voiced the first strong protests against HEAF's aggressive expansion of its "not-for-profit" business in March, 1982, when HEAF signed an agreement to guarantee loans made by the Hawkeye Bancorporation. At that time the Hawkeye Banks were making about 20 to 25 percent of the loans under our agency's guarantee through a program which they call the Iowa Higher Education Loan Program.

Our Commission believed that the Education Amendments of 1976 vested guarantee responsibility in a decentralized network of state agencies or private nonprofit corporations designated by appropriate authorities in each state. Iowa and many other states established such guarantee programs in the late 1970's with the assurance that the designated agency would serve as the sole guarantor in the state as long as that agency was able to provide loan access to all eligible students and operated in compliance with the program requirements established by statute or adopted by regulation.

Iowa is in full compliance with the law and has enlisted the participation of virtually every bank, savings and loan association, and credit union in our state. More than 670 lenders are providing approximately $100 million in loans annually and are assisting one out of every two Iowa college students. Since Iowa had developed a program that was highly successful and fully responsive to the needs of its students and schools, our Commission believed that HEAF had overstepped the boundaries of the law or, at least, the intent of the law by extending its business into our State. The Assistant Attorney General who provided legal counsel to our agency concurred in the Commission's viewpoint and appealed to Secretary Terrell Bell for a ruling and intervention. The Secretary did not agree with our counsel's interpretation of the law, as we discovered two months later when the Secretary replied that HEAF was acting entirely within the law. The Secretary also expressed the hope that the Iowa Commission would "co-exist with . . . HEAF . . . in a environment of healthy competition."

In due course the Commission decided to accept this verdict and "co-exist" with HEAF but to terminate the Agreements to Guarantee Loans which we hold with the Hawkeye-affiliated banks. The Commission took this action only after long and careful consideration of the confusion and possible liabilities that would result from allowing the Hawkeye Banks to retain eligibility for participation in the Iowa Program when they were not, in fact, participating to any appreciable extent. However, Hawkeye refused to accept the termination and is contesting this action in Polk County District Court.

In the meantime, possibly encouraged by the Department of Education stand on the issue, HEAF has been taking aggressive steps to expand its loan guarantee business across the country. The best publicized and most strongly protested example of this expansion to date has been the Law School Assured Access Program (LSAAP), a promotional activity jointly sponsored by the Higher Education Assistance Foundation, the Student Loan Marketing Association ("Sallie Mae"), and the Law School Admissions Council. The First American Bank of Washington also enters into this arrangement as the nominal originator of the LSAAP loans, using funds provided by the Student Loan Marketing Association.

The President of HEAF has informed his colleagues in the National Council of Higher Education Loan Programs that he will be launching two more "last resort" programs within the next two or three months. One will be for vocational students and will be jointly sponsored by Citibank, HEAF, and the Association of Independent Colleges and Schools (AICS) and the National Association of Trade and Technical Schools (NATTS). The other is intended to serve all types of postsecondary students and is to be jointly sponsored by the National Association of Financial Aid Administrators (NASFAA). The funding will be provided by a major insurance company. Loan applications will be distributed to students and forwarded to HEAF by the financial aid officers at the schools. In none of these "special access/last resort" programs does the borrower have any contact with the lender.

These activities are being undertaken by HEAF without regard to the availability of loans from local lenders under designated state guarantee agencies. They are clearly designed to build HEAF's nonprofit business at the expense of the authorized state agencies.

The Iowa Commission is firmly committed to the principle that the needs of students and equal opportunity for education must supersede any other consideration, including state territorial prerogatives. If HEAF had restricted its activities to the few states in which loans are not readily available to all categories of eligible students, I feel certain that this controversy would never have arisen. The President of HEAF explains his broadside approach to "providing loan access" by saying that he could not presume to evaluate whether any given state is doing an adequate job of making loans available to all of its students.

The majority of state guarantee agencies are convinced that the Guaranteed Student Loan and PLUS (or ALAS) Programs can serve students most effectively and economically if they are administered at the state level by state-designated agencies working in partnership with the Federal Government. Here are a few of the reasons for this viewpoint:

(1) A state-based agency is in a better position to work closely with the schools, lending institutions and students. This decentralized administration has been largely responsible for the growth and success of the Guaranteed Student Loan Program since the Education Amendments of 1976.

(2) Many of the state guarantee agencies, such as our Iowa Commission, are also responsible for state scholarships and grants. This dual responsibility ensures a better balance and a higher degree of coordination among the different types of student aid. For example, our Commission staff frequently speaks to groups of students and parents, high school guidance counselors or college financial aid administrators. We make a point of emphasizing the variety of student aid available and that borrowing should be a last resort source of assistance.

(3) The concept of competition between a state-regulated agency and a private nonprofit corporation is

unrealistic. Spending by state agencies is subject to close surveillance by the legislative and executive branches of state government, as it should be. The marketing and promotional expenditures commonly incurred by private organizations, as well as the high salaries paid to their executives, are far beyond the appropriate limits set for state agencies. The fact that a guarantor's administrative costs are reimbursed by the Federal Government up to the equivalent of one percent of the guarantor's loan volume should be an incentive to Congress to ensure that the loan guarantee function is administered as economically as possible.

(4) Multiple guarantors in a state generate confusion and possible abuse of the loan programs. The variations in application procedures and regulations can lead a student to believe that the competitor's program is a new and different source of aid. It would be possible for a student to obtain loans under both guarantors for the same school period, since there is no exchange of information between the guarantors. This presents a very real potential risk to lenders, since one of those loans would be ineligible for federal interest subsidy.

(5) The personal relationship between borrower and lender, an important safeguard against default, is sacrificed by the large multi-state guarantee

operation. Mail order loans are both easier to get and easier to forget. The Iowa College Aid Commission encourages the lender to hold a personal interview with the student borrower, whenever possible. This community-based approach, which has enlisted the participation of more than 670 hometown lending institutions, is working extremely well in Iowa. About 50 percent of the Iowa loans are made by lenders that have less than $1 million in student loans on their books. The defaults on these loans are negligible.

(6) Repayment of student loans is simplified and defaults less likely if the borrower has all the loans from a single lender under one guarantee agency. Multiple guarantors operating within a state encourage borrowing from a variety of lenders and lead to a complicated repayment schedule.

The events of the past 18 months have convinced our Commission that Congress needs to direct its attention to the current controversy between privately-controlled multi-state guarantors and the designated state guarantee agencies. The members of the National Council of Higher Education Loan Programs (NCHELP) adopted a statement of principles by a vote of 46 to 17 at its annual business meeting in May, 1983. This statement, which I am attaching to my comments, affirms the principle of state authority over entities providing loan guarantees for students who are residents of the state or attending college within the state. It also declares NCHELP support for any amendatory language needed to clarify the current law pertaining to state authority and responsibility in this area.

We commend this Subcommittee for its initiative in addressing this problem and thank you for the opportunity to express our Commission's viewpoints.

NATIONAL COUNCIL OF HIGHER EDUCATION LOAN PROGRAMS
STATEMENT OF PRINCIPLES

As Approved by a Vote of 46 to 17 at Spring Conference
May 17-19, 1983

NCHELP subscribes to the principle that the educational loan programs administered pursuant to Title IV, Part B, of the Higher Education Act of 1965, as amended, operate most effectively and efficiently when each state, through the political process appropriate to the state, takes, or causes to be taken, the following actions:

1. One or more entities should be established or appointed by each State to provide guarantees for student and parent loans for residents of that State or for residents of other States who may attend eligible schools within that State. The establishing or appointing authority within a State will vary from State to State but, in all cases, shall be a higher authority than a guarantee agency, should have lawmaking powers or should be vested with the responsibility of enforcing the laws of that State. The operation of other providers of GSL insurance within the borders of a State should be restricted to such activities as may be agreed upon or approved by the establishing or appointing authority. To the extent that Federal law is unclear or incompatible with this principle, NCHELP should actively support the adoption of necessary amendatory language.

2. Each such entity or entities should ensure that every eligible student within its service area has equal access to a lender who will not discriminate on any prohibited basis in making the credit decision.

3. Each state, by establishment or appointment of an entity or entities, should provide access to loan guarantees to all eligible lenders within its borders.

4. Each such entity or entities should ensure the availability of a lender or lenders of last resort.

5. Each such entity or entities should promote the availability of one or more secondary markets for its insured loans in order to provide loan liquidity at competitive rates to participating lenders.

6. Each such entity or entities should require all holders to use vigorous efforts to collect loans while ensuring compliance with state and federal collection laws.

7. The Task Force believes NCHELP, collectively and each of its members individually, should take all reasonable actions to protect and enhance the rights and responsibilities of each state through its appointed or designated entity to administer the loan programs by reasonable interpretation of the authorizing federal act and should encourage deregulation at the federal level consistent with the oversight and audit responsibilities necessary to ensure compliance with the act.

Senator STAFFORD. Thank you, Mr. Zimmer.

In view of the hour, the Chair is going to ask this panel if you would be willing to respond to a few questions in writing that we propose to propound at your early convenience.

Would that be agreeable?

Mr. ZIMMER. Happily.

Mr. ROSENBLATT. Yes, Senator.

Dr. BRONSON. Yes.

Senator STAFFORD. Fine. Then, we will have a few questions we would like to send to you. And for the committee and for myself personally, I want to express my appreciation and our appreciation to all of you for helping us this morning as we wrestle with how best to make sure our students have access to funds to go to college.

Thank you very much.

The committee stands adjourned.

[Whereupon, at 12:30 p.m., the subcommittee was adjourned.].

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